

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE; TABLE OF CONTENTS

(1) Short Title

The House bill cites that this Act may be cited as the “Farm Security Act of 2001”. (Section 1)

The Senate amendment cites that the Act may be cited as the “Agriculture, Conservation, and Rural Enhancement Act of 2002”. (Section 1)

The Conference substitute cites this Act as the “Farm Security and Rural Investment Act of 2002”. (Section 1000)

TITLE I – COMMODITY PROGRAMS

(2) Definitions

The House bill defines terms necessary for implementation of this Act: Agricultural Act of 1949, base acres, counter-cyclical payment, covered commodity, effective price, eligible producer, fixed decoupled payment, other oilseed, payment acres, payment yield, producer, Secretary, State, target price and United States. (Section 101)

The Senate amendment defines terms necessary for implementation of this Act: Agricultural Act of 1949, considered planted, contract, contract acreage, contract commodity, contract payment, Department, ELS Cotton, loan commodity, oilseed, payment yield, producer, Secretary, State and United States. (Section 101)

The Conference substitute defines terms necessary for implementation of this Act: Agricultural Act of 1949, base acres, counter-cyclical payment, covered commodity, direct payment, effective price, extra long staple cotton, loan commodity, other oilseed, payment acres, payment yield, updated payment yield, producer, Secretary, State, target price and United States. (Section 1001)

Subtitle A—Fixed Decoupled Payments and Counter-Cyclical Payments

(3) Payments to eligible producers

The House bill provides that beginning with the 2002 crop year, the Secretary will make fixed decoupled payments and counter-cyclical payments to eligible producers, including producers that would have been eligible for an AMTA contract payment in 2002 and other producers of a covered commodity on a farm in the United States as described in section 103(a).

Defines a producer eligible to share in a fixed, decoupled and counter-cyclical payment as “an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title”.

Requires the Secretary to protect the interests of tenants and sharecroppers in carrying out this title.

Sharing of Contract Payments – The Secretary shall provide for the sharing of fixed, decoupled payments and counter-cyclical payments among the eligible producers on a farm on a fair and equitable basis.

The Senate amendment provides that the Secretary shall offer to enter into a contract with an eligible owner or producer on a farm containing eligible cropland under which the eligible owner or producer will receive direct and counter-cyclical payments under sections 113 and 114, respectively.

For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments available to eligible owners and producers on a farm that have entered into a contract to receive payments under this section.

For each of the 2002 through 2006 crop years, the Secretary shall make counter-cyclical payments to eligible owners and producers on a farm of each contract commodity that have entered into a contract to receive payments under this section.

An eligible owner or producer on a farm, subject to the provisions for share-rent tenants, cash-rent tenants and cash-rent owners, shall be eligible to enter into a contract.

Share-rent Tenant – A producer on eligible cropland that is a tenant with a share-rent lease of the eligible cropland shall be eligible to enter into a contract, regardless of the length of the lease, if the owner enters into the same contract.

Cash-Rent Tenant – Contracts With Long-Term Lease – A producer on eligible cropland that cash rents the eligible cropland under a lease expiring on or after the termination of the contract shall be eligible to enter into a contract.

Contracts With Short-Term Lease – A producer that cash rents the eligible cropland under a lease expiring before the termination of the contract shall be eligible to enter into a contract in addition to the owner. Provides that the owner must consent if a producer elects to enroll less than 100 percent of the eligible cropland in the contract.

Cash-Rent Owner – An owner of eligible cropland that cash rents under a lease that expires before the end of the 2006 crop year shall be eligible to enter into a contract if the tenant declines to do so, however the Secretary shall not make contract payments to the owner under the contract until the lease held by the tenant terminates.

Requires the Secretary to protect the interest of tenants and sharecroppers in carrying out this subtitle.

Requires the Secretary to provide for the sharing of contract payments among the

eligible producers on a farm on a fair and equitable basis. (Section 111)

The Conference substitute deletes both the House and the Senate provisions, except provides in section 1105 for the protection of the interest of tenants and sharecroppers and requires the sharing of direct and counter-cyclical payments among the producers on a farm on a fair and equitable basis. (Section 1105)

The Managers intend that the Secretary will consider acreage and production data from producers' federal crop insurance records, as well as records provided to the Farm Service Agency to qualify for market assistance loan benefits during the relevant crop years.

(4) Establishment of payment yield

The House bill requires the Secretary to establish payment yields for each farm for each covered commodity. The yield for a farm will be the payment yield in effect for the 2002 crop of the commodity as provided under section 505 of the Agricultural Act of 1949. If no yield is available, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area.

Relative to soybeans and other oilseeds, the Secretary will establish a yield for a farm by determining the average yield from 1998 through 2001, excluding years where the acreage planted to the oilseed was zero. If a farm would have satisfied disaster eligibility requirements under the FY1999 Agriculture Appropriations Bill in any of the 1998 through 2001 crop years, the Secretary will assign a yield to the farm equal to 65 percent of the county yield for that year in determining the 4-year average.

The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) the average yield for the oilseed determined under paragraph (1).

The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.(Section 102)

The Senate amendment provides that subject to subsection (h), an eligible owner or producer that has entered into a contract under this subtitle may make a 1-time election to have the payment yield for each of the contract commodities for a farm be equal to an amount that is the greater of: (1) the average yield per harvested acre for the crop of the contract commodity for the farm for the 1998-2001 crop years, excluding any crop year for which the producers on the farm did not plant the contract crop and, at the option of the producers, 1 additional crop year or the farm program payment yield adjusted for any additional yields. If no yield records are available for a contract commodity, including land devoted to oilseed under a conservation reserve contract, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area. (Section 111)

The Conference substitute requires the Secretary to establish payment yields for each farm for each covered commodity. The yield for a farm will be the payment yield in effect for the 2002 crop of the commodity as provided under section 505 of the Agricultural Act of 1949, as adjusted by the Secretary to account for any additional yield payments. If no yield is available, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area, but before the yields for the similar farms are updated to reflect the

actual yield per planted acre for the period 1998 through 2001.

Relative to soybeans and other oilseeds, the Secretary will establish a yield for a farm by determining the average yield from 1998 through 2001, excluding years where the acreage planted to the oilseed was zero.

The payment yield for a farm for an oilseed shall be equal to the product of the following: (A) The average yield for the oilseed for the 1998 through 2001 crops. (B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for purposes of determining the average yield for the 1998 through 2001 crop years.

If the owner of a farm elects to update the crop acreage base for all covered commodities using the average of the planted and prevented from planting acreage for 1998 through 2001, the owner shall also have a 1-time opportunity to elect to partially update the payment yields that would be used in calculating any counter-cyclical payments for covered commodities on the farm. If yields are updated for counter-cyclical payments for one covered commodity, they must be updated for all covered commodities on the farm.

If the owner of a farm elects to update yields for payments, the counter-cyclical payment yield for a covered commodity on the farm shall be equal to the yield determined using either of the following: (A) The sum of the payment yield applicable for direct payments for the covered commodity on the farm and 70 percent of the difference between the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years and the payment yield applicable for direct payments for the covered commodity on the farm, or (B) 93.5 percent of the average yield per planted acre for the crop of the covered commodity for the farm for the 1998 through 2001 crop years.

If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the county for the purpose of determining the average yield.

Owners electing to partially update yields are required to have the partially updated yield determined on the average yield per planted acre, excluding any year in which the crop was not planted. The Managers intend that the Secretary recognize that those producers planting crops for grazing that will be included as base acreage are unable to furnish production evidence similar to that furnished by producers that harvest crops for grain. For those owners intending to partially update a crop's counter-cyclical yield that have this situation, the Managers intend for the Secretary to equitably determine the yield on the grazed acreage to be used for purposes of proven yields by either assigning a yield based on the actual production for that year on similar farms that harvested for grain or other method determined appropriate by the Secretary. (Section 1102)

(4) Establishment of base acres and payment acres for a farm

The House bill provides that the Secretary will give producers a choice in

determining their base acres. Producers may choose base acres reflecting the four-year average of acreage planted or prevented from being planted to the commodity for harvest, grazing, haying, silage, and other similar purposes during the 1998 through 2001 crop years. Alternatively, producers may choose base acres reflecting contract acreage that would otherwise be used to calculate the fiscal year 2002 production flexibility contract payments.

Producers may make an election of base acres only once and provide notice of the election to the Secretary no later than 180 days after the date of enactment of this Act. If a producer fails to make an election of base acreage, or fails to timely notify the Secretary of the selected base acreage, the producers shall be deemed to have chosen base acres reflecting the production flexibility contract acreage.

The election made by the producer shall apply to all covered commodities on the farm.

In the case of producers on a farm that elect as their base acreage the contract acreage used by the Secretary to calculate the fiscal year 2002 payment, the Secretary will restore base acres when land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary. (Conservation Reserve Program Sign-up 1-14)

For the fiscal year and crop year in which a base acre adjustment is first made, the producers on the farm shall elect to receive either fixed decoupled payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract, but not both.

In the case of producers on a farm that elect as their base acreage the contract acreage used by the Secretary to calculate the fiscal year 2002 payment, the Secretary will restore base acres when land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary. (Conservation Reserve Program Sign-up 15 and greater)

Payment acres for both the fixed decoupled and the counter-cyclical payment shall be equal to 85% of the base acres.

The sum of base acres, peanut acres and acreage enrolled in CRP, WRP, or other programs in which a producer agrees not to produce a commodity on acreage in exchange for a payment, cannot exceed the actual cropland acreage on the farm. The Secretary shall give producers on the farm the opportunity to select base acres or peanuts acres against which the reduction will be made. The Secretary shall make an exception in the case of double cropping. (Section 103)

The Senate amendment provides that land shall be considered to be cropland eligible for coverage under a contract only if the land has with respect to a contract commodity, contract acreage attributable to the land and a payment yield or was subject to a conservation reserve contract with a term that expired, or was voluntarily terminated on or after the date of enactment.

Provides that an eligible owner or producer may enroll as contract acreage under this subtitle all or a portion of the eligible cropland on the farm.

Provides that an owner or producer that enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

Subject to subsection (h) the Secretary shall provide eligible owners and producers on the farm with an opportunity to elect 1 of the following methods as the method by which the contract acreage for the 2002 through 2006 crops of all contract

commodities for a farm are determined: (1) the 4-year average of acreage planted or considered planted to a contract commodity for harvest, grazing, haying, silage, or other similar purposes during the 1998 through 2001 crop years or (2) contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the 4-year average for each oilseed produced on the farm.

In making the contract acreage and yield elections, eligible owners and producers on a farm shall elect to update the contract acreage using the 4-year 1998 through 2001 average acreage and the 1998 through 2001 average yield per harvested acre (adjusted for years with no planted acreage and at the option of the producer, 1 additional crop year) or the 2002 production flexibility contract crop acreage plus the 4-year average of oilseeds and the farm program payment yield for current contract crops and for oilseeds, the 1998 through 2001 average yield per harvested acre (adjusted for years with no planted acreage and at the option of the producer, 1 additional crop year).

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract that terminated after 180 days after the enactment of this Act to enter into or expand a contract to cover the eligible cropland of the farm that was subject to the former conservation reserve contract.

For the fiscal year and crop year for which a contract acreage adjustment is made as a result of the termination of a conservation reserve program contract the eligible owners and producers on the farm shall elect to receive direct payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract.

The sum of the contract acreage, peanut acres and acreage enrolled in CRP, WRP, or other acreage on a farm enrolled in a voluntary Federal conservation program under which production of any agricultural commodity is prohibited, cannot exceed the actual cropland acreage on a farm. The Secretary shall give owners and producers on the farm the opportunity to select contract acreage or peanut acres against which the reduction will be made. The Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm. (Section 111)

The Conference substitute provides that for the purpose of making direct and counter-cyclical payments to a farm, the Secretary shall give an owner of the farm an opportunity to elect the method by which the base acres of all covered commodities on the farm are to be determined. Subject to the provision requiring the base acreage to be determined based on a 4-year average, including the years in which the crop was not planted, and the treatment of multiple plantings or prevented planting on the same acreage, owners may choose the farms crop acreage base by either: (1) using the acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years including any acreage on the farm that the producers were prevented from planting to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary or (2) contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the 4-year average for each oilseed produced on the farm for the 1998 through 2001 crop years. The eligible acreage for each oilseed on a farm shall be the average of each oilseed for the 1998 through 2001 crop years, except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between the total acreage determined for all covered commodities for that crop year and the total contract acreage used by the

Secretary to calculate the fiscal year 2002 production flexibility contract payment.

The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the production flexibility contract acreage for one or more covered commodities on an acre-for-acre-basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed.

The Secretary shall not exclude any crop year in which a covered commodity was not planted for purposes of determining a 4-year acreage average.

For the purposes of determining the 4-year average of acreage planted or prevented from being planted during the 1998 through 2001 crop years to covered commodities, acreage that was planted or prevented from being planted that was devoted to another covered commodity in the same crop year may only be used in the base calculation after the owner determines whether the initial commodity or the subsequent commodity, but not both, will be used.

As soon as practicable after the date of enactment of this Act, the Secretary shall provide notice to owners of farms regarding their opportunity to make the applicable base election. The notice shall include: (1) notice that the opportunity of an owner to make the election is being provided only once and (2) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

The owner may make an election of base acres only once and must provide notice of the election to the Secretary within the time period and in the manner prescribed by the Secretary. If an owner fails to make an election of base acreage, or fails to timely notify the Secretary of the election made, the owner shall be deemed to have chosen base acres reflecting the production flexibility contract acreage, plus oilseeds if applicable.

The election made by the producer shall apply to all covered commodities on the farm.

The Secretary shall provide for an appropriate adjustment in the base acres for covered commodities for a farm whenever land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary.

For the crop year in which a base acre adjustment is first made, the owner on the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract, but not both.

Payment acres for both the direct and the counter-cyclical payment shall be equal to 85% of the base acres.

The sum of base acres, base acres for peanuts and acreage enrolled in CRP, WRP, or other conservation programs which restrict or prohibit the production of an agricultural commodity cannot exceed the actual cropland acreage on the farm. The Secretary shall give producers on the farm the opportunity to select base acres or base acres for peanuts against which the reduction will be made. The Secretary shall make an exception in the case of double cropping.

The owner of a farm may reduce, at any time, base acreage for any covered commodity for the farm provided the reduction of base acreage is permanent.

In implementing Section 1101, the Secretary shall also allow owners of a farm who did not hold a production flexibility contract under the Federal Agriculture Improvement and Reform Act of 1996 to elect to calculate base acreage for planting history on the farm for crop years 1998-2001. The intent of this section is to provide the

opportunity to owners to update base acreage to reflect a more recent planting history, to allow owners not holding a production flexibility contract to receive farm program benefits under this Act, and to allow owners holding production flexibility contracts the opportunity to retain their base acreage and add oilseeds in a limited manner.

The Managers expect the Secretary to recognize that although the owner of the farm will be allowed the opportunity to make the applicable base election under Section 1101, it is important that other producers on the farm are notified of the acreage options available to the owner. In addition to providing notice to the owner of the farm, the Managers expect the Secretary to provide notice to operators or producers on a farm of the owner's opportunity to elect the method in which to calculate base acres at the time the Secretary provides notice to the owner.

The Managers are aware that production flexibility contract acreage was not protected on acreage enrolled into the Conservation Reserve Program during CRP signup number 15 and later. The Managers intend that the Secretary develop a method that provides for the restoration of base acreage on farms that permanently reduced contract acreage because of enrollment in CRP. Since soybeans and other oilseeds did not have contract acreage prior to this Act, the Managers expect the Secretary to treat soybeans and other oilseeds in a manner that is similar and consistent with other covered commodities. (Section 1101)

(5) Elements of Contracts.

The Senate amendment provides the Time for Contracting –

(1) Commencement. – To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) Except as provided in paragraph the Secretary may not enter into a contract after the date that is 180 days after the date of enactment.

(3) At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm with a conservation reserve contract that terminated after the final date to enroll eligible cropland in a direct and counter-cyclical payment contract to enter into or expand a contract to cover the eligible cropland that was subject to the former conservation reserve contract.

Duration of Contract – The term of a contract shall begin with the 2002 crop or in the case of acreage that was subject to a conservation reserve contract that is subsequently terminated, the date the contract was entered into or expanded to cover the terminated acreage. Unless earlier terminated by eligible owners or producer, the contract shall extend through the 2006 crop. (Section 111)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(6) Availability of Fixed, Decoupled Payments.

The House bill provides that the Secretary shall make fixed decoupled payments to eligible producers for each of the 2002 through 2011 crop years at a payment rate of \$0.53 per bushel for wheat, \$0.30 per bushel for corn, \$0.36 per bushel for grain sorghum, \$0.25 per bushel for barley, \$0.025 per bushel for oats, \$0.0667 per pound for upland cotton, \$2.35 per hundredweight for rice, \$0.42 per bushel for soybeans, and \$0.0074 per pound for other oilseeds.

The amount of the fixed, decoupled payment will be equal to the product of the

payment rate of the applicable base crop, the payment acres, and the payment yield.

Fixed decoupled payments shall be paid no later than September 30 of fiscal years 2002 through 2011, except that in fiscal year 2002 payments may be made on or after December 1, 2001.

A producer may elect to receive 50 percent of the fixed decoupled payment in advance anytime on or after December 1 of a fiscal year. The producer may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If a producer who receives an advance fixed decoupled payment ceases to be an eligible producer by the time final fixed decoupled payments are to be made, the producer must repay the advance amount.

The Senate amendment provides that the Secretary shall make direct payments available to eligible owners and producers that have entered into a contract at a payment rate as follows:

	<u>2002-03</u>	<u>04-05</u>	<u>2006</u>	
Wheat	\$0.45	\$0.225	\$0.113	bu
Corn	\$0.27	\$0.135	\$0.068	bu
Barley	\$0.20	\$0.100	\$0.050	bu
Oats	\$0.05	\$0.025	\$0.013	bu
Cotton	\$0.13	\$0.065	\$0.0325	lb
Rice	\$2.45	\$2.400	\$2.400	cwt
Soybeans	\$0.55	\$0.275	\$0.138	bu
Other				
Oilseeds	\$0.01	\$0.005	\$0.0025	lb
Grain Sorghum	2002 - \$0.31			bu
	2003 - \$0.27			bu
	2004-2005 - \$0.135			bu
	2006 - \$0.068			bu

The amount of direct payment will be equal to the product of the payment rate for the contract crop for the applicable year, contract acreage and the payment yield.

A final direct payment (less the amount of any initial payment made to the producers on the farm of the contract commodity) shall be made not later than September 30 of the fiscal year.

A producer may elect to receive 50% of the direct payment in advance anytime on or after December 1 of the fiscal year. (Section 111)

The Conference substitute provides that the Secretary shall make direct payments to eligible producers for each of the 2002 through 2007 crop years at a payment rate of \$0.52 per bushel for wheat, \$0.28 per bushel for corn, \$0.35 per bushel for grain sorghum, \$0.24 per bushel for barley, \$0.024 per bushel for oats, \$0.0667 per pound for upland cotton, \$2.35 per hundredweight for rice, \$0.44 per bushel for soybeans, and \$0.008 per pound for other oilseeds.

The amount of the direct payment will be equal to the product of the payment rate of the applicable base crop, the payment acres, and the payment yield.

For 2002, the Secretary is directed to make payments as soon as practicable after the date of enactment of this Act and for 2002 through 2007, but not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

A producer may elect to receive up to 50 percent of the direct payment in advance in any month after December 1 of the calendar year before the calendar year in which the

crop of the covered commodity is harvested. The producer may change the selected month for a subsequent crop year by providing advance notice to the Secretary.

If a producer who receives an advance fixed decoupled payment ceases to be a producer or changes share before the date the remainder of the direct payments are to be made, the producer must repay the applicable amount of the advance payment.

The Managers are aware that producers that elect to receive up to 50 percent of an advance direct payment might cease to be a producer on the farm before the date the remainder of the direct payment is made. The Managers assume the Secretary recognizes that different reasons exist for a producer ceasing to be a producer on a farm. These reasons would include bankruptcy, foreclosure and other similar situations that would preclude the producer from repaying the advance direct payment. Specifically, the Managers would not intend for this provision to apply in situations where a producer with winter wheat harvested a crop or failed to harvest the crop for weather related reasons beyond their control and the acreage was subsequently under the control of another producer that intended to plant a subsequent crop, or other similar situations. Conversely, the Managers expect there are a number of situations where the producer receiving the advance direct payment ceases to be a producer on the farm and should refund the advance direct payment. (Section 1103)

(7) Availability of Counter-Cyclical Payments.

The House bill provides that the Secretary shall make counter-cyclical payments relative to a covered commodity whenever the effective price is less than the target price.

The target price is \$4.04 per bushel for wheat, \$2.78 per bushel for corn, \$2.64 per bushel for grain sorghum, \$2.39 per bushel for barley, \$1.47 per bushel for oats, \$0.736 per pound for upland cotton, \$10.82 per hundredweight for rice, \$5.86 per bushel for soybeans, and \$0.1036 per pound for other oilseeds.

The effective price is equal to the sum of (1) the higher of the national average market price during the 12-month marketing year for the commodity or the national average loan rate for the commodity, and (2) the payment rate for fixed decoupled payments for the commodity.

The payment rate for counter-cyclical payments is equal to the difference between the target price and the effective price for the commodity.

The payment amount for counter-cyclical payments is the product of the payment rate, the payment acres, and the payment yield.

The Secretary shall make counter-cyclical payments for a covered commodity as soon as possible after determining that such payments are required.

The Secretary may provide a partial payment up to 40 percent of the projected counter-cyclical payment to producers upon completion of the first 6 months of the marketing year for that crop.

The producer must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year.

If the Secretary uses the authority to designate another oilseed for counter-cyclical payments the Secretary may modify the target price in subsection (c) (9) that would otherwise apply to that oilseed.

For purposes of calculating the effective price for barley the Secretary shall use the loan rate in effect for barley under section 122(b)(3) except in the case of producers who received the higher loan rate provided under such section for barley used only for

feed purposes, the Secretary shall use the that higher loan rate. (Section 105)

The Senate amendment provides that the Secretary shall make counter-cyclical payments relative to a contract commodity to owners and producers on a farm that have entered into a contract to receive such payments.

The income protection price is \$3.4460 per bushel for wheat, \$2.3472 per bushel for corn, \$2.3472 per bushel for grain sorghum, \$2.1973 per bushel for barley, \$1.5480 per bushel for oats, \$0.6793 per pound for upland cotton, \$9.2914 per hundredweight for rice, \$5.7431 per bushel for soybeans, and \$0.1049 per pound for other oilseeds.

The payment rate for counter-cyclical payments shall equal the difference between the income protection price and the total of the higher of (1) the average price of the contract commodity during the first 5 months of the marketing year of the contract commodity or the loan rate for the commodity, and (2) the direct payment for the contract crop for the fiscal year that precedes the date of payment under this section.

The payment amount for counter-cyclical payments is the product of the payment rate for the contract crop, the contract acreage, and the payment yield.

The Secretary shall make counter-cyclical payments not later than 190 days after the beginning of the marketing year for the applicable contract crop. (Section 114)

The Conference substitute provides that the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and bases acres are established with respect to a covered commodity whenever the effective price is less than the target price.

The effective price is equal to the sum of (1) the higher of the national average market price during the 12-month marketing year for the commodity or the national average loan rate for the commodity, and (2) the payment rate for direct payments for the commodity.

For the 2002 and 2003 crop years, the target price is \$3.86 per bushel for wheat, \$2.60 per bushel for corn, \$2.54 per bushel for grain sorghum, \$2.21 per bushel for barley, \$1.40 per bushel for oats, \$0.724 per pound for upland cotton, \$10.50 per hundredweight for rice, \$5.80 per bushel for soybeans, and \$0.098 per pound for other oilseeds.

For the 2004 and 2007 crop years, the target price is \$3.92 per bushel for wheat, \$2.63 per bushel for corn, \$2.57 per bushel for grain sorghum, \$2.24 per bushel for barley, \$1.44 per bushel for oats, \$0.724 per pound for upland cotton, \$10.50 per hundredweight for rice, \$5.80 per bushel for soybeans, and \$0.1010 per pound for other oilseeds.

The payment rate for counter-cyclical payments is equal to the difference between the target price and the effective price for the commodity.

The payment amount for counter-cyclical payments is the product of the payment rate, the payment acres, and the payment yield or updated payment yield, depending on the election of the owner of the farm.

If the Secretary determines that a counter-cyclical payment is required to be made for a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

If the Secretary estimates counter-cyclical payments will be required, the Secretary shall give producers the option to receive partial payments.

When the Secretary makes partial payments for any of the 2002 through 2006

crop years, the first partial payment for the crop shall be made not earlier than October 1 and to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested. The second partial payment shall be made not earlier than February 1 of the next calendar year and the third and final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

For the 2002 through 2006 crop years, the first partial payment may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the crop of the covered commodity and the amount of the payment made under clause (i). The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producer and the amount of the first and second partial payment.

For the 2007 crop year, the first partial payment shall be made after completion of the first 6 months of the marketing year and the second and final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

For the 2007 crop year, the first partial payment may not exceed 40 percent of the projected counter-cyclical payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producer and the amount of the partial payment.

The producer must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year. (Section 1104)

(8) Producer Agreement Required as Condition on Provision of Fixed, Decoupled Payments and Counter-Cyclical Payments

The House bill provides that before producers on a farm may receive fixed, decoupled payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements and to use the land on the farm, in an amount equal to the base acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

The Secretary may issue such rules to ensure compliance with these requirements.

A producer may not be required to make repayments to the Secretary of fixed, decoupled payments and counter-cyclical payments if the farm has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment. This subsection shall not void the responsibilities of the producer to comply with conservation, wetlands protection, planting flexibility and agriculture land use requirements if the producer continues or resumes operation, or control of the farm. On the resumption of operation or control over the farm by the producer, the above noted requirements in effect on the date of the foreclosure shall apply.

A transfer of (or change in) the interest of a producer in base acres for which fixed decoupled or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees

to assume all obligations under conservation, wetland, planting flexibility or agriculture land use provisions. The termination shall be effective on the date of the transfer or change.

There is no restriction on the transfer of base acres or payment yield as part of a change in the producers on the farm.

At the request of the transferee or owner, the Secretary may modify the conservation, wetlands protection, planting flexibility and agriculture land use requirements if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

If a producer entitled to a fixed, decoupled payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

Requires a producer who receives fixed decoupled payments, counter-cyclical payments, or marketing loan assistance to submit acreage reports to the Secretary.

A determination of the Secretary under this section shall be considered an adverse decision for purposes of availability of administrative review. (Section 106)

The Senate amendment provides that under the terms of a contract, the owner or producer shall agree, in exchange for annual payments to comply with applicable highly erodible land conservation requirements, applicable wetland conservation requirements, planting flexibility requirements and to use a quantity of land on the farm equal to the contract acreage, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary. (Section 111)

The Conference substitute provides that before producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements, to use the land on the farm in a quantity attributable to the base acres for an agricultural or conserving use and not for a nonagricultural commercial or industrial use, as determined by the Secretary and on noncultivated land attributable to the base acres, control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

The Secretary may issue rules to ensure compliance with these requirements.

At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

A transfer of (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees to assume all obligations under conservation, wetland, planting flexibility, agriculture land use provisions and controlling noxious weeds provisions. The termination shall take effect on the date determined by the Secretary.

If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

A producer who receives direct payments, counter-cyclical payments, or marketing loan benefits is required to submit annual acreage reports with respect to all cropland on the farm to the Secretary.

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

When there is a transfer (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made, the Managers intend for the Secretary to provide a time frame for the succession to occur that is farmer-friendly.

Acreage reports provide important information such as assisting in determining the eligibility of land to be accepted into the Conservation Reserve Program. The Managers are aware that in prior years, the Secretary has imposed penalties on producers that submit acreage reports that the Secretary later determines to be inaccurate. The Managers understand that under prior acreage limiting and acreage reduction programs there was a need for very accurate reporting. However, under this Act, with the exception of determining the amount of fruits, vegetables, and wild rice planted on base acreage, there is no such need or requirement for the level of accuracy. Therefore, under this provision the Managers do not intend for any penalty to be applicable to inaccurate acreage reports on covered commodities or peanuts, provided the producer has made a good faith effort to accurately report acreage. (Section 1105)

(9) Violations of Contracts

The Senate amendment is the same as current law except for amending language in existing law to add a provision for a planting flexibility violation. Makes corrections to add:

Planting Flexibility. – In the case of a first violation of the planting flexibility provisions by an eligible owner or producer that has entered into a contract and that acted in good faith, in lieu of terminating the contract under subsection (a), the Secretary shall require a refund or reduce a future contract payment under subsection (b) in an amount that does not exceed twice the amount otherwise payable under the contract on the number of acres involved in the violation. (Section 112)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(10) Planting Flexibility

The House bill provides that all rules concerning planting flexibility are unchanged with the exception of adding wild rice as a prohibited crop.

Subject to the limitations in subsection (b), any commodity may be planted on base acres on a farm.

The planting of fruits, vegetables (excluding lentils, mung beans, and dry peas) and wild rice are prohibited on base acres.

The 3 exceptions to this rule in current law are also unchanged.

- (1) Fruits, vegetables or wild rice may be planted on base acres in a region where the Secretary determines there is a history of double cropping of covered commodities with fruits, vegetables or wild rice.
- (2) Fruits, vegetables or wild rice may be planted on base acres on a farm that the Secretary determines has a history of planting fruits, vegetables or wild rice on base acres, except that fixed decoupled payments and counter-cyclical payments will be reduced for each acre planted.

Fruits and vegetables also may be planted by a producer who the Secretary determines has an established planting history of a specific fruit, vegetable or wild rice, except that the quantity planted may not exceed the producer's annual planting history of such agricultural commodity from the 1991 through 1995 crop years, as determined by the Secretary, and fixed, decoupled payments and counter-cyclical payments will be reduced for each acre planted. (Section 107)

The Senate amendment provides that all rules concerning planting flexibility are unchanged with the exception of adding chickpeas as a permitted exception, wild rice as a prohibited crop for 2003 and beyond, and by changing the base period from 1991 through 1995 to 1996 through 2001 to establish a planting history for a producer.

Limitations – The planting of the following agricultural commodities shall be prohibited on contract acreage: (A) Fruits. (B) Vegetables (other than lentils, mung beans, dry peas, and chickpeas). (C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice”;

Same as current law except for the change in base period (for a producer) as noted directly below.

Sec. 118(b)(2)(C) by striking “1991 through 1995” and inserting “1996 through 2001”. (Section 113)

The Conference substitute adopts the House provision with an amendment that provides that the planting of fruits, vegetables (other than lentils, mung beans and dry peas) and wild rice shall be prohibited on base acreage unless the commodity, if planted, is destroyed before harvest.

The planting of fruits and vegetables produced on trees and other perennials shall be prohibited on base acres.

The Secretary shall establish a producer planting history for fruits, vegetables and wild rice planted by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years.

For the 2002 crop year, if the calculation of base acres results in total base acres for a farm in excess of the contract acreage for the farm that was used to calculate the fiscal year 2002 payment, the planting of fruits, vegetables and wild rice on new base acres is allowed, provided the direct and counter-cyclical payments for the 2002 crop year are reduced on an acre-for-acre basis. (Section 1106)

(11) Relation to Remaining Payment Authority under Production Flexibility Contracts.

The House bill provides authority to make production flexibility contract payments for the 2002 fiscal year is terminated upon enactment. If a producer receives an PFC contract payment for the 2002 fiscal year before enactment of this legislation, the amount of the producer's fixed decoupled payment for fiscal year 2002 will be reduced by the amount of the PFC contract payment. (Section 108)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that terminates the authority of the Secretary to make production flexibility contract payments on the date of the enactment of this Act, unless requested by the producer. Any direct payments due a producer under this Act would be reduced by any fiscal year 2002 payments made under a production flexibility contract. (Section 1107)

(12) Payment Limitations

The House bill provides fixed decoupled payments and counter-cyclical payments are subject to the payment limitations contained in sections 1001 through 1001C of the Food Security Act of 1985 as amended. Limitations are based on a crop year and the fixed, decoupled limitation is \$50,000 and the counter-cyclical limitation is \$75,000. (Section 109)

The Senate amendment amends Section 1001 of the Food Security Act of 1985. The total of direct and counter-cyclical payments that an individual or entity may receive during any fiscal year for program commodities shall not exceed \$75,000. The total of marketing loan gains, forfeiture gains, gains from marketing certificates and loan deficiency payments that a person is entitled to receive for program crops, peanuts, honey and wool is \$150,000 per crop year.

During a fiscal and corresponding crop year, the total amount of payments and benefits that a married couple may receive from direct, counter-cyclical and marketing loan is \$75,000 and \$150,000 respectively, plus a combined total of an additional \$50,000.

Provides that an individual or entity shall not be eligible for a direct, income-protection and marketing loan program benefits if the average adjusted gross income of the individual or entity exceeds \$2.5 million. (Section 169)

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed \$40,000 and \$65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is \$75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of \$40,000 and \$65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of \$75,000.

Retains current rules on husband and wife, 3-entities, actively engaged, generic certificates and adopts the \$2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For example, participants who are organized as C Corporations, S Corporations, or as nonprofit organizations, the Managers intend for the Secretary to use this direction to adopt alternative income measurements that compare most closely to adjusted gross income. The Managers expect the Secretary to implement this provision in a manner that provides equitable treatment, to the maximum extent practicable to all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds \$2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary. (Section 1603)

(13) Period of Effectiveness.

The House bill provides that the subtitle is effective from the 2002 crop year

through the 2011 crop year. (Section 110)

The Senate amendment provides that the term of a contract shall extend through the 2006 crop, unless earlier terminated by the eligible owners or producers on a farm. (Section 111)

The Conference substitute adopts the House provision with an amendment that the subtitle is effective through the 2007 crop year. (Section 1109)

(14) Pilot Program For Farm Counter-Cyclical Savings Accounts

The Senate amendment amends Subtitle B of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C 7211 et seq.) to authorize and fund a pilot program for farm counter-cyclical savings accounts. Eligible producers may establish such accounts in the name of the producer in a bank or financial institution selected by the producer and approved by the Secretary of Agriculture. A savings account shall consist of B contributions of the producer; matching contributions of the Secretary; and interest earned on account balances.

To be eligible, a producer must share in the risk of producing an agricultural commodity for the applicable year; have filed a farm business-related federal income tax return during each of the previous 5 years, or be a beginning farmer or rancher, and have at least \$50,000 in average adjusted gross farm revenue, except for limited resource farmers as determined by the Secretary.

An eligible producer may deposit such amounts in the account of the producer as the producer considers appropriate. The Secretary shall provide a matching contribution on the amount deposited by the producer into the account, except that matching contributions may not exceed 2 percent of the producer's average adjusted gross farm revenue, or \$5,000 for any applicable fiscal year. The Secretary shall provide the required matching contributions for a producer as of the date that a majority of the commodities grown by the producer are harvested.

In any year, a producer may withdraw funds from the account in an amount up to the difference between 90 percent of the producer's average adjusted gross revenue and the producers adjusted gross revenue in that year. A producer that ceases to be actively engaged in farming, as determined by the Secretary, may withdraw the full balance from, and close, the account; and may not establish another account.

The Secretary shall administer this program through the Farm Service Agency and local, county, and area offices of the Agriculture Department. For each of fiscal years 2003 through 2005, the Secretary shall establish a farm counter-cyclical savings account pilot program in 3 States, as determined by the Secretary. The total amount of matching contributions in a State may not exceed \$4 million per State for each of fiscal years 2003 through 2005. (Section 114)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

(15) Availability of Nonrecourse Marketing Assistance Loans for Covered Commodities

The House bill provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for covered commodities produced on the farm, including extra long staple cotton, for each of the 2002 through 2011 crop years.

Any production of a covered commodity on a farm is eligible for a marketing assistance loan.

Producers that would otherwise be eligible for the assistance, but for the fact the covered commodity is commingled with covered commodities of other producers in facilities unlicensed for the storage of commodities, if the producer obtaining the loan agrees to immediately redeem the loan collateral.

Producers are required to comply with applicable conservation requirements and applicable wetland protection requirements as a condition to receiving marketing loan assistance.

Extra long staple cotton is defined.

Marketing assistance loans for the 2002 crop of covered commodities shall not be made under subtitle C of title I of such Act. (Section 121)

The Senate amendment provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm through the 2006 crop.

The FAIR Act is amended by striking the definition of eligible production and redefining as: Eligible Production. – The producers on a farm shall be eligible for a marketing loan under subsection (a) for any quantity of a loan commodity produced on the farm.

Sec. 169 may restrict quantity. (Section 121)

The Conference substitute provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm, including extra long staple cotton, wool, mohair, honey, dry peas, lentils and small chickpeas for each of the 2002 through 2007 crop years.

Any production of a loan commodity on a farm is eligible for a marketing assistance loan, however loan commodities harvested for hay and silage, and unshorn pelts are eligible only for a loan deficiency payment.

The Secretary shall make loans to producers that would otherwise be eligible for the assistance, but for the fact the loan commodity is commingled with loan commodities of other producers in facilities unlicensed for the storage of commodities, if the producer obtaining the loan agrees to immediately redeem the loan collateral.

Producers are required to comply with applicable conservation requirements and applicable wetland protection requirements as a condition to receiving marketing loan assistance.

Marketing assistance loans for the 2002 crop of loan commodities shall not be made under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996.

Beginning with the 2002 crop, the Managers intend for marketing loan and loan deficiency program benefits to be made available for all farms producing loan commodities, regardless of whether the farm does or does not have base acreage. (Section 1201)

(16) Loan Rates for Nonrecourse Marketing Assistance Loans.

The House bill provides loan rates (per bushel or pound, as applicable) are maintained at not more than \$2.58 for wheat, \$1.89 for corn and grain sorghum, \$1.65 for barley except not more than \$1.70 for barley used only for feed purposes, \$1.21 for oats, \$0.5192 for upland cotton (and not less than \$0.50), \$0.7965 for extra long staple cotton,

\$4.92 for soybeans, and \$0.087 for other oilseeds, and equal to \$6.50 per cwt. for rice.

Amends section 162(b) of the FAIR Act by striking “this title” and inserting “this title and title I of the Farm Security Act of 2001”. (Section 122)

The Senate amendment provides loan rates are \$2.9960 per bushel for wheat, \$2.0772 per bushel for corn and grain sorghum, \$1.9973 per bushel for barley, \$1.4980 per bushel for oats, \$0.5493 per pound for upland cotton, \$0.7965 per pound for extra long staple cotton, \$6.4914 per hundredweight for rice, \$5.1931 per bushel for soybeans, \$0.0949 per pound for other oilseeds, \$6.78 per hundredweight for dry peas, \$12.79 per hundredweight for lentils, \$17.44 per hundredweight for large chickpeas and \$8.10 per hundredweight for small chickpeas.

Sec. 132(b)(1) of the FAIR Act. No change from existing law except instead of referencing “commodity”, “loan commodity” is referenced.

Sec. 132(b)(2) of the FAIR Act is consistent with Sec 162(b) of existing law.

Sec. 123(b) Repeals Sec. 162(c) of current law, but Sec. 171(b)(2) repeals Sec. 123(b). (Section 123)

The Conference substitute provides for loan rates for the 2002 and 2003 crop years that are different than loan rates for the 2004 through 2007 crop years for most crops.

Loan rates for the 2002 and 2003 crop years are \$2.80 per bushel for wheat, \$1.98 per bushel for corn, \$1.98 per bushel for grain sorghum, \$1.88 per bushel for barley, \$1.35 per bushel for oats, \$0.52 per pound for upland cotton, \$0.7977 per pound for extra long staple cotton, \$5.00 per bushel for soybeans, \$0.096 per pound for other oilseeds, and \$6.50 per hundredweight for rice, \$6.33 per hundredweight for dry peas, \$11.94 per hundredweight for lentils and \$7.56 per hundredweight for small chickpeas.

Loan rates for the 2004 through 2007 crop years are \$2.75 per bushel for wheat, \$1.95 per bushel for corn, \$1.95 per bushel for grain sorghum, \$1.85 per bushel for barley, \$1.33 per bushel for oats, \$0.52 per pound for upland cotton, \$0.7977 per pound for extra long staple cotton, \$5.00 per bushel for soybeans, \$0.093 per pound for other oilseeds, and \$6.50 per hundredweight for rice, \$6.22 per hundredweight for dry peas, \$11.72 per hundredweight for lentils and \$7.43 per hundredweight for small chickpeas.

Loan rates for the 2002 through 2007 crop years are \$1.00 per pound for graded wool, \$0.40 per pound for ungraded wool and unshorn pelts and \$4.20 per pound for mohair.

Loan rate for the 2002 through 2007 crop years for honey is \$0.60 per pound.

The Managers anticipate the Secretary will take advantage of the change in national average loan rates to review and adjust as appropriate the county loan rates.

To the extent practicable, for purposes of making loans and loan deficiency payments, the Secretary should designate loan rates in those units that are consistent with the units in common usage in the industry.

It is the intention of the Committee that the provision for non-graded wool be made available for wool that has not been objectively measured for fiber diameter (micron) and yield. Documentation of objective measurement is commonly known as a core test, which is available through laboratory analysis. It is the intent of the Managers that the Secretary provide the graded wool loan rate to wool that meets the terminology used by the wool industry to define graded wool, such as core tested. (Section 1202)

(17) Term of Loans.

The House bill provides that the term for marketing assistance loans is unchanged. For all covered commodities except upland cotton and extra long staple cotton, the term of the loan is nine months beginning on the first day of the first month after the month in which the loan is made.

For upland cotton and extra long staple cotton, the term of the loan is 10 months beginning on the first day of the month in which the loan is made.

Prohibits extension of a marketing assistance loan for a covered commodity. (Section 123)

The Senate amendment provides that the term for marketing assistance loans for all commodities shall be 9 months beginning on the first day of the first month after the month in which the loan is made. (Section 124)

The Conference substitute adopts the Senate provision with respect to the term of loans and adopts the House provision with respect to the prohibition on extension of loans. (Section 1203)

(18) Repayment of Loans.

The House bill provides repayment of marketing assistance loans is unchanged. The Secretary will permit producers of wheat, corn, grain sorghum, barley, oats, soybeans, and other oilseeds to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs, and allow the commodity to be marketed freely and competitively.

The Secretary will permit producers of upland cotton and rice to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or the prevailing world market price (adjusted to U.S. quality and location), as determined by the Secretary.

The Secretary will permit producers of extra long staple cotton to repay a marketing assistance loan at the loan rate plus interest.

The Secretary will prescribe by regulation the formula to determine the prevailing world market price and a mechanism to periodically announce this price.

The adjustment of the prevailing world market price for upland cotton is unchanged.

In the case of a producer that marketed or lost beneficial interest before repaying the loan, the Secretary shall permit the producer to repay the loan at the lowest repayment rate that was in effect for the covered commodity under this section as of the date that the producer lost beneficial interest.

(Section 124)

The Senate amendment amends Section 134(a) of the FAIR Act by striking the reference to wheat, corn, grain sorghum, barley, oats and oilseeds and inserting “a loan commodity (other than upland cotton, rice, and extra long staple cotton)” (in effect, adding wool, honey, dry peas, lentils and chickpeas to the list of commodities) and adding “minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries” to the other 4 factors the Secretary is required to use in determining a loan repayment rate.

Amends Sec. 1001 of the Food Security Act of 1985. Sec. 1001(c) Limitations on marketing loan gains, loan deficiency payments, and commodity certificate transactions and Sec. 1001(d) Settlement of certain loans may restrict the eligibility of some producers

to repay loans at a lower repayment rate.

Amends Sec. 134(e)(1) of the FAIR Act by authorizing the program through July 31, 2007. (Section 125, 121, and 169)

The Conference substitute permits producers of wheat, corn, grain sorghum, barley, oats, soybeans, other oilseeds, dry peas, lentils, small chickpeas, wool, mohair, and honey to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs, allow the commodity to be marketed freely and competitively, and minimizes discrepancies in marketing loan benefits across State boundaries and county boundaries.

The Secretary will permit producers of upland cotton and rice to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or the prevailing world market price (adjusted to U.S. quality and location), as determined in accordance with section 163 of the FAIR Act.

The Secretary will permit producers of extra long staple cotton to repay a marketing assistance loan at the loan rate plus interest as determined in accordance with section 163 of the FAIR Act.

The Secretary will prescribe by regulation the formula to determine the prevailing world market price for upland cotton and rice and a mechanism to periodically announce this price.

The adjustment of the prevailing world market price for upland cotton is unchanged.

For the 2001 crop, in the case of a producer that marketed or lost beneficial interest before repaying the loan, the Secretary shall permit the producer to repay the loan at the appropriate repayment rate that was in effect for the loan commodity under as of the date that the producer lost beneficial interest, if the Secretary determines the producers acted in good faith.

The Managers intend that in determining loan repayment rates for loan commodities other than upland cotton and rice, the Secretary will consider alternative methodologies, including establishing the Posted County Prices for grains and oilseeds at levels that reflect market prices at both terminal markets for counties with two terminal markets. The Managers expect the Secretary to determine whether assigning equal weight to two terminal markets will better reflect local market prices than the current system of using the higher of the two terminal markets to establish the Posted County Price.

In implementing the marketing assistance loan program for minor oilseeds, the Managers expect the Secretary to establish a single sunflower loan rate in each county for oil-type, confection and other-type sunflowers combined. Managers also expect the Secretary to continue to announce weekly loan repayment rates for sunflowers reflecting local market prices that minimize potential loan forfeitures. Accordingly, sunflower seed loan repayment rates should reflect oil-type sunflower seed local market prices.

The Conference substitute established a marketing assistance loan program for pulse crops – dry peas, lentils and small chickpeas. The loan rate for dry peas is based on U.S. feed pea prices; the loan rate for lentils is based on the price of U.S. No. 3 lentils; and the loan rate for small chickpeas is based on the price of chickpeas that drop below a 20/64 screen. Accordingly, the Managers expect the Secretary to calculate regional pulse loan rates and repayment rates based on the prices of feed peas, No. 3 lentils, and

chickpeas that drop below a 20/64 screen. (Section 1204)

(19) Loan Deficiency Payments.

The House bill provides loan deficiency payments are maintained. The Secretary will make loan deficiency payments available to producers who, although eligible for a marketing assistance loan, agree to forgo a loan in favor of receiving a payment.

The loan deficiency payment is determined by multiplying the loan payment rate by the quantity of the covered commodity produced, excluding any commodity for which the producer obtained a loan.

The loan payment rate is the amount by which the loan rate exceeds the rate at which the loan may be repaid.

Loan deficiency payments do not apply to extra long staple cotton.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity, or the date the producer requests the payment.

Provides for loan deficiency payments on crop year 2001 covered commodities on farms that do not have an AMTA contract. (Section 125)

The Senate amendment amends Sec. 135 of the FAIR Act. Makes loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan with respect to a loan commodity, agree to forgo obtaining the loan in return for payments under this section.

Strikes subsections (e) and (f) of section 135 of the FAIR Act and inserts language comparable to the House provision except the provision is applicable for the 2001-2006 crops. The Secretary shall make a loan deficiency payment only if the producer has beneficial interest in the loan commodity as of the earlier of the date on which the producers on the farm marketed or otherwise lost beneficial interest in the loan commodity or the date the producers on the farm request the payment.

Amends section 135(a)(2) to provide for loan deficiency payments on crop year 2001 contract commodities on farms that do not have a production flexibility contract. (Section 126)

The Conference substitute provides for the continuation of loan deficiency payments. The Secretary will make loan deficiency payments available to producers who, although eligible for a marketing assistance loan, agree to forgo a loan in favor of receiving a payment.

Unshorn pelts, hay and silage derived from a loan commodity are not eligible for a marketing assistance loan, however the commodities are eligible for loan deficiency payments when unshorn pelts, hay or silage are derived from a loan commodity.

The loan deficiency payment is determined by multiplying the payment rate by the quantity of the loan commodity produced, excluding any commodity for which the producer obtained a loan.

The payment rate is the amount by which the loan rate exceeds the rate at which the loan may be repaid.

Provides that the loan deficiency payment for unshorn pelts is based on the rate in effect for ungraded wool and the loan deficiency payment for hay and silage is based on the loan commodity from which the hay and silage is derived.

Loan deficiency payments do not apply to extra long staple cotton.

The Secretary shall make a loan deficiency payment on the date the producer

requests the payment.

Provides for loan deficiency payments on crop year 2001 loan commodities on farms that do not have an AMTA contract.

For the 2001 crop, the Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the loan commodity, or the date the producer requested the payment. (Section 1205)

(20) Payments in Lieu of Loan Deficiency Payments for Grazed Acreage.

The House bill provide that the Secretary will make payments in lieu of loan deficiency payments for grazed acreage to producers that would be eligible for such a loan deficiency payment for wheat, barley, or oats but elects to use the acreage planted to the crops for livestock grazing.

To receive a payment, the producer must agree to forgo any other harvesting of the commodity on that acreage.

The payment amount is determined by multiplying the loan deficiency payment rate by the payment quantity, which is determined by multiplying the quantity of grazed acreage in which the producer elects to forgo harvesting by the payment yield.

The time, manner, and availability of these payments are to be consistent with the general loan deficiency payment and marketing assistance loan provisions for wheat, barley, and oats.

Producers who receive a loan deficiency payment under this section are ineligible for crop insurance or noninsured crop assistance as to that acreage. (Section 126)

The Senate amendment adds Sec. 138 to Subtitle C of the FAIR Act. The Secretary will make payments in lieu of loan deficiency payments for grazed acreage to producers that would be eligible for such a loan deficiency payment for wheat, grain sorghum, barley, or oats but who elect to use the acreage planted to the crops for livestock grazing.

To receive a payment, the producer must agree to forgo any other harvesting of the commodity on that acreage.

The payment amount is determined by multiplying the loan deficiency payment rate by the payment quantity, which is determined by multiplying the quantity of grazed acreage in which the producer elects to forgo harvesting by the payment yield.

The time, manner, and availability of these payments are to be consistent with the general loan deficiency payment and marketing assistance loan provisions for wheat, grain sorghum, barley, and oats.

Producers who receive a loan deficiency payment under this section are ineligible for crop insurance or noninsured crop assistance as to that acreage. (Section 127)

The Conference substitute adopts the House provision with an amendment that provides payments to producers with triticale for grazing when the producer agrees to forgo any other harvesting of the acreage.

For purposes of determining the loan deficiency payment to be used in calculating the payment for the grazing of triticale acreage only, the Managers intend for the Secretary to take into account the predominate class of wheat grown in the county in which the farm is located. (Section 1206)

(21) Special Marketing Loan Provisions for Upland Cotton.

The House bill provides that the special marketing loan provisions for upland

cotton remain unchanged, including provisions relating to cotton user marketing certificates, the special import quota, and the limited global import quota for upland cotton.

Authorizes through July 31, 2012. (Section 127)

The Senate amendment amends section 136(a) of the FAIR Act by adding language that removes the 1.25-cent threshold for Step-2 cotton payments beginning on the date of enactment of this paragraph and ending on July 31, 2003.

Amends Sec. 136 of the FAIR Act by authorizing program through July 31, 2007. (Section 121 and 128)

The Conference substitute adopts the House provision with an amendment that accepts the Senate provision removing the 1.25-cent threshold for cotton Step-2 payments through July 31, 2006. (Section 1207)

(22) Special Competitive Provisions for Extra Long Staple Cotton.

The House bill provides that the special competitive provisions for extra long staple cotton remain unchanged, including provisions relating to the competitiveness program, payments under the program, eligibility, and the amount and form of payment. (Section 128)

The Senate amendment amends Sec. 136(A)(a) of the FAIR Act by authorizing the program through July 31, 2007. (Section 121)

The Conference substitute adopts the House provisions through July 31, 2008. (Section 1208)

(23) Availability of Recourse Loans for High Moisture Feed Grains and Seed Cotton and other Fibers.

The House bill provides that the availability of recourse loans for high moisture feed grains and seed cotton remains unchanged. Authority under the FAIR Act to provide this assistance for the 2002 crop year is terminated. (Section 129)

The Senate amendment amends Sec. 137 of the FAIR Act by authorizing the loans through the 2006 crops. Otherwise retains current law. (Section 121)

The Conference substitute adopts the House provision with an amendment that provides that a loan under this subsection shall be made on a quantity of acquired grain determined by multiplying the acreage in a high moisture state on the farm by the lower of the farm program payment yield used for counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary. (Section 1209)

(24) Availability of Nonrecourse Marketing Assistance Loans for Wool and Mohair.

The House bill provides that the Secretary will make nonrecourse marketing assistance loans available to producers of wool and mohair for the 2002 through 2011 marketing years.

The graded wool loan rate is not more than \$1.00 per pound. The non-graded wool loan rate is not more than \$0.40 per pound. The mohair loan rate is not more than \$4.20 per pound.

The term of the loan is one year beginning on the first day of the first month after the month in which the loan is made.

Producers may repay the loan at a rate that is the lesser of the loan rate established for the commodity plus interest or at a rate that the Secretary determines will minimize

forfeitures, accumulation of stocks, storage costs, and that allows the commodity to be marketed freely and competitively.

Loan deficiency payments are also authorized to those producers who agree to forgo obtaining a loan.

The loan payment rate shall be the amount by which the loan rate in effect for the commodity exceeds the rate at which a loan may be repaid.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity or the date the producer requests the payment.

The marketing loan gains and loan deficiency payment a producer may receive under the wool and mohair program is subject to a separate but equal payment limitation than other covered commodities receiving marketing loan benefits. (Section 130)

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rates are \$1.00 per pound for graded wool, \$0.40 per pound for nongraded wool and unshorn pelts. The Senate amendment contains no provisions for mohair.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for wool and other loan commodities. (Section 123, 124 and 125)

The Conference substitute accepts the House provisions with an amendment that adds unshorn pelts as a commodity eligible for a loan deficiency payment. In addition, all marketing loan and loan deficiency provisions for wool and mohair are integrated into the same sections in subtitle B as for other loan commodities.

(25) Availability of Nonrecourse Marketing Assistance Loans for Honey.

The House bill provides that the Secretary will make nonrecourse marketing assistance loans available to producers of honey for the 2002 through 2011 marketing years.

The honey loan rate shall be equal to \$0.60 per pound.

The term of the loan is one year beginning on the first day of the first month after the month in which the loan is made.

Producers may repay the loan at a rate that is the lesser of the loan rate established for the commodity plus interest or at the prevailing domestic market price for honey.

Loan deficiency payments are also authorized to those producers who agree to forgo obtaining a loan.

The loan payment rate shall be the amount by which the loan rate in effect for the commodity exceeds the rate at which a loan may be repaid.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity or the date the producer requests the payment.

The marketing loan gains and loan deficiency payment a producer may receive under the honey program is subject to a separate but equal payment limitation than other covered commodities receiving marketing loan benefits.

This section shall be carried out in a manner as to minimize forfeitures of honey. (Section 131)

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rate is \$0.60 per pound.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for honey and other loan commodities. (Section 123, 124, and 125)

The Conference substitute accepts the House provisions with an amendment that includes honey in the same marketing loan and loan deficiency sections as for other loan commodities in subtitle B.

(26) Availability of Nonrecourse Marketing Assistance Loans for Dry Peas, Lentils and Chickpeas.

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rate for dry peas is \$6.78 per hundredweight, loan rate for lentils is \$12.79 per hundredweight, loan rate for large chickpeas is \$17.44 per hundredweight, and loan rate for small chickpeas is \$8.10 per hundredweight.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for dry peas, lentils, chickpeas and other loan commodities. (Section 123, 124, and 125)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides a loan rate for the 2002 and 2003 crop years at \$7.56 per hundredweight for small chickpeas, \$11.94 per hundredweight for lentils and \$6.33 per hundredweight for dry peas.

Provides a loan rate for the 2004 through 2007 crop years at \$7.43 per hundredweight for small chickpeas, \$11.72 per hundredweight for lentils and \$6.22 per hundredweight for dry peas. (Section 1202)

(27) Producer retention of erroneously paid loan deficiency payments and marketing loan gains.

The House bill provides that neither the Secretary nor CCC shall require producers in Erie County, Pennsylvania, to repay 1998 and 1999 loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned. In the case of a producer who has already made repayment, CCC shall reimburse the producer the full amount of the repayment. (Section 132)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1618)

Subtitle C – Other Commodities Chapter 1-Dairy

(28) Milk Price Support Program.

The House bill provides that the Milk Price Support Program is authorized through December 31, 2011 at a rate of \$9.90/cwt on a 3.67% milk fat basis. The Secretary is authorized to purchase butter, nonfat dry milk powder or cheese at established prices in order to maintain the \$9.90/cwt support price. The purchase prices for butter and nonfat dry milk powder may be allocated so as to minimize expenditures from the Commodity Credit Corporation. The Secretary may modify purchase prices for butter and nonfat dry milk not more than 2 times per year. (Section 141)

The Senate amendment amends the Federal Agriculture Improvement and Reform Act of 1996 extending the price support program through December 31, 2006. It also retains provisions of the 1996 Act to provide that at the program's termination, it shall be considered to have expired notwithstanding section 257 (relating to the baseline) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(Section 131)

The Conference substitute adopts the House provision (including an enduring budgetary baseline) with an amendment providing for the program's operation through December 31, 2007.

(29) Repeal of Recourse Loan Program For Processors.

The House bill provides that the Recourse Loan Program for Processors (7 U.S.C. 7252) is repealed (Section 142)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. P.L. 107-76 repealed the Recourse Loan Program.

(30) Extension of Dairy Export Incentive and Dairy Indemnity Programs.

The House bill provides that the Dairy Export Incentive Program (15 U.S.C. 713a-14(a)) is extended through 2011. The Dairy Indemnity Program (7 U.S.C. 4501) is extended through 2011. (Section 143)

The Senate amendment extends the Dairy Export Incentive Program and the Dairy Indemnity Program through 2006. (Section 133)

The Conference substitute adopts the House provision with an amendment to extend both programs through 2007.

(31) Fluid Milk Promotion.

The House bill provides that the Fluid Milk Processor Promotion Program (7 U.S.C. 6402) is amended to repeal the termination of authority, and to make technical changes to the definitions of "Fluid Milk Product" and "Fluid Milk Processor." (Section 144)

The Senate amendment is similar with technical amendments within the definition of fluid milk processor regarding exclusion for products delivered directly to the place of residence of a consumer. (Section 134)

The Conference substitute adopts the Senate provision.

(32) Dairy Product Mandatory Reporting.

The House bill provides that the Dairy Product Mandatory Reporting (7 U.S.C. 1637a(1)) is amended to make technical corrections regarding products to be reported. (Section 145)

The Senate amendment is similar with technical amendments regarding the definition of manufactured dairy products. (Section 135)

The Conference substitute adopts the Senate provision.

The managers want to ensure the enforcement of federal standards of identity that apply for fluid milk products purchased by the federal government for distribution in all federally supported feeding and nutrition programs. If the Secretary of Health and Human Services determines that the federal standards are not being enforced, the

Secretary is urged to develop and implement procedures for the enforcement of federal standards of identity for fluid milk products purchased by the federal government within 1 year of enactment of this legislation.

(33) Funding of Dairy Promotion and Research Program.

The House bill provides that the Dairy Promotion Program (7 U.S.C. 4502) is amended to require dairy importers to pay an assessment equivalent to domestic dairy producers. Importers would be eligible to vote in referenda and would have representation on the National Dairy Promotion and Research Board. (Section 146)

The Senate amendment is the same (Section 136)

The Conference substitute adopts the House provision with amendments to authorize the Secretary of Agriculture to reapportion the representation levels of domestic producers and importers to reflect a proportion of domestic production and imports supplying the United States market; to make clear that assessments from importers will not be used for foreign export promotion purposes; to clarify when the importer must pay the assessment; to make clear that the domestic milk rate shall be applied to imports on a milk-equivalent basis; to make clear that national dairy promotion program and order must promote milk and dairy products without regard to origin; and to require that in implementing an order under this section, the Secretary consults with the United States Trade Representative in order to ensure consistency with the international trade obligations of the United States.

The Conferees note that since 1990, the provisions of 7 U.S.C. 2278 have been in effect and apply generally to research and promotion programs administered by the Department of Agriculture. Those provisions require that the Secretary consult with the U.S. Trade Representative when research and promotion orders are modified or implemented to apply to imported products, and take steps to ensure that international trade obligations are met. The Conferees intend that the similar provision included specifically in the conference substitute with respect to assessments on imports for the dairy promotion program not be regarded as being in conflict with current law.

(34) Study of National Dairy Policy and Studies of Effects of Changes in Approach to National Dairy Policy and Fluid Milk Identity Standards.

The House bill requires the Secretary of Agriculture to conduct an economic analysis of various options for a National Dairy Program and report to Congress not later than April 30, 2002. (Section 147)

The Senate amendment requires studies of the effects of terminating all Federal dairy programs and establishing regional compacts, and a study of the effects of establishing minimum protein standards to be reported to Congress not later than September 30, 2002. (Section 137)

The Conference substitute adopts the both the House and Senate provisions with an amendment to require that each report be issued one year after the date of enactment of this Act.

(35) National Dairy Program

The Senate amendment creates a national dairy support program with two components. The National Dairy Market Loss Assistance Program is authorized from December 1, 2001, through September 30, 2005. The program covers producers in states

not included in the Northeast Dairy Market Loss Payment program. Payment is calculated by taking 40% of the difference between the all-milk price and the historical five-year average multiplied by eligible production. Eligible production is based on taking the lesser of (A) the average quantity of milk marketed for commercial use in which the producer has had a direct or indirect interest during each of the 1999 through 2001 fiscal years, (B) 8,000,000 pounds, or (C) actual production for the time period. The program is capped at \$1.5 billion.

The Northeast Dairy Market Loss Payment program is authorized from December 1, 2001 through September 30, 2005. The program covers the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia. Payment is based on a target price of \$16.94. Eligible production is based on the lesser of (A) the average quantity of milk marketed for commercial use in which the producer had a direct or indirect interest during each of the 1999 through 2001 fiscal years, (B) 8,000,000 pounds, or (C) actual production for the time period. The program is capped at \$500 million. (Section 132)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to create a single national program using the payment formula established under the proposed Northeast Dairy Market Loss Assistance Program. Under this program, participating dairy producers will receive monthly payments equal to 45 percent of the difference between \$16.94 and the price per hundredweight of Class I fluid milk in Boston under the applicable federal milk marketing order. No payments will be made for months during which the fluid milk price in Boston is \$16.94 or higher. Payments will be made not later than 60 days after the end of the month for which a payment is made. Producers, on an operation-by-operation basis, may receive payments on no more than 2.4 million pounds of milk marketed per year. Retroactive payments will be made covering market losses due to low prices since December 1, 2001. The program is authorized through September 30, 2005.

The Managers understand that previous Dairy Market Loss Assistance Programs provided discretion to the Secretary to limit payments to individual dairy operations. It is the intent of the Managers that this program shall be administered in the same manner, thereby limiting payments on an operation-by-operation basis. Accordingly, a producer might qualify for separate limits on separate operations.

The managers intend that in carrying out this section, the Secretary utilize information available through the Agricultural Marketing Service monthly milk marketing's by producers.

Chapter 2 – Sugar

(36) Sugar Program

The House bill subsection (a) reauthorizes the sugar program through the 2011 crop year.

Subsection (b) terminates the marketing assessment on sugar effective October 1, 2001.

Subsection (c) provides the Secretary of Agriculture the discretion to reduce loan rates for U.S. sugar producers in the event that support for foreign competitors is reduced beyond that required under the Agreement on Agriculture.

Subsection (d) ensures that notification requirements do not frustrate the purposes

of the nonrecourse loan program.

Subsection (e) authorizes nonrecourse loans on in-process sugars.

Subsection (f) requires the Secretary of Agriculture to administer the sugar program at no net cost to the federal government to the maximum extent practicable. The subsection also authorizes the CCC to accept bids from processors for the purchase of sugar inventory in exchange for reduced production.

Subsection (g) establishes reporting guidelines for producers and importers relative to yields and acreage planted and amounts imported. Requires reporting by sugar cane producers in proportionate share states.

Subsection (h) makes section 163 of the FAIR Act inapplicable to sugar.(Section 151)

The Senate amendment subsection (i) reauthorizes the sugar program through the 2006 crop year.

Subsection (c) terminates the marketing assessment on sugar effective October 1, 2001.

Subsection (a) provides the Secretary of Agriculture the discretion to reduce loan rates for U.S. sugar producers in the event that support for foreign competitors is reduced beyond that required under the Agreement on Agriculture.

Paragraph (2) of subsection (b) ensures that notification requirements do not frustrate the purposes of the nonrecourse loan program.

Subsection (e) authorizes nonrecourse loans on in-process sugars.

Subsection (f) requires the Secretary of Agriculture to administer the sugar program at no net cost to the federal government to the maximum extent practicable and subject to subsection (e)(3) (which bars the Secretary from imposing pre notification requirements as a condition to forfeiture). The subsection also authorizes the CCC to accept bids from processors for the purchase of sugar inventory in exchange for reduced production.

Subsection (g) establishes reporting guidelines for producers and importers relative to yields and acreage planted and amounts imported. Loan assistance is conditioned on reporting by sugar cane producers located in proportionate share states.

Subsection (j) makes section 163 of the FAIR Act inapplicable to sugar.

Subsection(b)(1) modifies provisions to assure that loan benefits are passed through to producers by allowing beet producers to contract minimum payments and by providing for the use of CCC funds to compensate producers in the event of bankruptcy or insolvency of the processor.

Subsection (h) allows substitutability of all refined sugar for re-export. (Section 141)

The Conference substitute adopts the Senate sugar provisions, with technical and clarifying amendments, except that the provision providing for the use of CCC funds to compensate producers in the event of processor bankruptcy or insolvency is excluded.

(37) Reauthorize Provisions of Agricultural Adjustment Act of 1938 Regarding Sugar.

The House bill subsection (a) repeals repetitive reporting provisions.

Subsection (b) requires the Secretary to establish marketing allotments for domestically grown sugar to eliminate forfeitures through 2011.

Subsection (c) updates the allotment formula to take into account current U.S. import obligations. The subsection also assigns allotments between sugarcane and sugar

beets. Finally the subsection authorizes the Secretary to suspend allotments whenever imports exceed a certain level.

Subsection (d) updates the base periods and other factors applicable to the allocation of sugarcane and sugar beet allotments among sugarcane and sugar beet processors, respectively.

Subsection (e) establishes procedures for the Secretary to reassign allotments if a processor cannot meet the allocation.

Subsection (f) prescribes the manner in which allotment disputes are settled and provides for certain adjustments in the event a processor closes.

Subsection (g) allows the Secretary to preserve certain acreage base history for a longer period and also defines the term “offshore states”.

Subsection (h) lifts the suspension on allotments for the 2002 crop. (Section 152)

The Senate amendment subsection (a) repeals repetitive reporting provisions.

Subsection (b) requires the Secretary to establish marketing allotments for domestically grown sugar to eliminate forfeitures through 2006.

Subsection (c) updates the allotment formula to take into account current U.S. import obligations. The subsection also assigns allotments between sugarcane and sugar beets. Finally the subsection authorizes the Secretary to suspend allotments whenever imports exceed a certain level.

Subsection (d) updates the base periods and other factors applicable to the allocation of sugarcane and sugar beet allotments among sugarcane and sugar beet processors, respectively. Adds provisions for new entrant states. Provides formula for beet sugar allocation.

Subsection (e) establishes procedures for the Secretary to reassign allotments if a processor cannot meet the allocation.

Subsection (f) prescribes the manner in which allotment disputes are settled and provides for certain adjustments in the event a processor closes.

Subsection (g) allows the Secretary to preserve certain acreage base history for a longer period and also defines the term “offshore states”.

Sec. 165(2)(A) strikes the suspension of price support authority for sugar. (Section 143)

The Conference substitute adopts the Senate sugar provisions, with technical and clarifying amendments.

Subsections (b)(1)(D) and (b)(2)(C) of section 359(e) of the Agricultural Adjustment Act of 1938, as amended by section 1403 of the conference agreement, provide for the reassignment of unused marketing allotments for cane sugar and beet sugar, respectively to imports of sugar under certain specified conditions. It is the intent of the conferees that in the event that any allotments are reassigned to imports, the appropriate agency shall accommodate the allotted imports by increasing the tariff-rate quota for sugar in an amount equal to the total amount of the allotments reassigned to imports. By doing so, the market balance sought by the allotment system should be maintained and will not result in a reduction in the overall allotment quantity, a suspension of the allotments, or any increase in the prospect of the forfeiture of domestically produced sugar to the Commodity Credit Corporation.

(38) Storage Facility Loans

The House bill subsection (a) requires the CCC to amend the Code of Federal

Regulations to establish a sugar storage facility loan program. Subsection (b) requires the CCC to make such loans to processors of domestically produced sugar that have satisfactory credit history, that need increased storage, and that demonstrate an ability to repay the loan. Subsection (c) provides for a 7- year term for the loan. Subsection (d) requires the program be administered using the services, facilities, and funds of the CCC. (Section 153)

The Senate amendment subsection (a) requires the CCC to amend the Code of Federal Regulations to establish a sugar storage facility loan program. Subsection (b) requires the CCC to make such loans to processors of domestically produced sugar that have satisfactory credit history, that need increased storage, and that demonstrate an ability to repay the loan. Subsection (c) provides for a 7- year term for the loan. (Section 142)

The Conference substitute adopts the Senate provision.

(39) Reallocation of Sugar Quota

The Senate amendment requires the U.S. Trade Representative in consultation with the Secretary, by June 1 of each year, to determine the amount of the quota of cane sugar used by each qualified supplying country for that country for that fiscal year. The Trade Representative may reallocate the unused quota. (Section 144)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with technical amendments.

Chapter 3—Peanuts

(40) Definitions

The House bill defines terms necessary for implementation of this act, including counter-cyclical payment, effective price, historic peanut producer, fixed, decoupled payment, payment acres, peanut acres, payment yield, peanut producer, Secretary, State, target price, and United States. (Section 161)

The Senate amendment defines terms necessary for implementation of this act, including counter-cyclical payment, direct payment, effective price, historical peanut producers on a farm, income protection price, payment acres, peanut acres, payment yield, and peanut producer. (Section 151)

The Conference substitute adopts the House provision with an amendment that clarifies the definition of “producer”, changes the term “peanut acres” to “base acres for peanuts”, changes the term “fixed, decoupled payment” to “direct payment”, and provides 2002 transitional payment language under the term “payment acres”. (Section 1301)

(41) Establishment of payment yield, peanut acres, and payment acres for a farm.

The House bill provides that the Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer produced peanuts for the 1998 through 2001 crops years, excluding any crop year in which the producer did not produce peanuts.

If, for any of these four crop years in which peanuts were planted on a farm by the producer, the farm would have satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and

Related Agencies Appropriations Act 1999, the Secretary shall assign a yield for the producer for that year equal to 65 percent of the county yield, as determined by the Secretary. (Section 162)

The Secretary shall determine, for each historic peanut producer, the four-year average of acreage actually planted in peanuts by the historic peanut producer for harvest on one or more farms during crop years 1998, 1999, 2000, and 2001 and any acreage that the producer was prevented from planting to peanuts during such crops years because of drought, flood or other natural disaster, or other condition beyond the control of the producer, as determined by the Secretary.

If more than one historic peanut producer shared in the risk of producing the crop on the farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

The Secretary shall make the determinations required by this subsection not later than 90 days after the date of the enactment of this Act. In making such determinations, the Secretary shall take into account changes in the number and identity of persons sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when the historic peanut producer is no longer living or an entity composed of historic peanut producers has been dissolved.

The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the producer to cropland on a farm.

The average of all of the yields assigned by historic peanut producers to a farm shall be deemed to be the payment yield for that farm for the purpose of making fixed, decoupled payments and counter-cyclical payments under this chapter.

Subject to subsection (e), the total number of acres assigned by historic peanut producers to a farm shall be deemed to be the peanut acres for a farm for the purpose of making fixed, decoupled payments and counter-cyclical payments under this chapter.

The opportunity to make the assignments described in subsection (b) shall be available to historic peanut producers only once. The historic peanut producers shall notify the Secretary of the assignments made by such producers under such subsections not later than 180 days after the date of the enactment of this Act.

The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

If the sum of the peanut acres for a farm, together with the base acres for the farm under subtitle A, any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program, and any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage, exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or base acres for one of more covered commodities for the farm as necessary so that sum of peanut acres and other covered acreage does not exceed the actual cropland acreage of the farm. The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or base acres against which the reduction will be made.

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping as determined by the Secretary (Section 162)

The Senate amendment provides that the Secretary shall determine, for each historical peanut producer, the average yield for peanuts on all farms of the historical peanut producer for the 1998 through 2001 crop years, excluding any crop year during which the producers did not produce peanuts.

If, for any of the crop years in which peanuts were planted on a farm by the historical peanut producer, the historical peanut producer has satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, the Secretary shall assign to the historical peanut producer a yield for the farm for the crop year equal to 65 percent of the average yield for peanuts for the previous 5 crop years.

Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years, and any acreage that was prevented from being planted to peanuts during the crop years because of drought, flood or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

If a county in which a historical peanut producer is located is declared a disaster area during 1 or more of the four crop years, for purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 year of the crop years during which a disaster is declared (A) the State average of acreage actually planted to peanuts; or (B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2)

The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section. In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

The Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm

The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter

Not later than 180 days after the date of enactment of this section, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

If the total of the peanut acres for a farm, together with the contract acreage for the farm under subtitle B, any acreage on the farm enrolled in the conservation reserve

program or wetlands reserve program, and any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agriculture commodity on the acreage, exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for one or more covered commodities for the farm as necessary so that the total of the peanut acres and other covered acreage does not exceed the actual cropland acreage of the farm. The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contract acreage against which the reduction will be made.

In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary. (Section 151)

The Conference substitute adopts the House provision with an amendment. The amendment allows the historic peanut producer to elect to substitute for a farm, for not more than 3 of the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

The amendment requires the historic peanut producer to assign average base acreage and average yield to a farm by March 31, 2003. In addition, the amendment sets a series of criteria that a historic peanut producer must meet for them to assign average base acreage and average yield across state lines. The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms. The amendment states that the notice shall include: notice that the opportunity to make the assignments is being provided once, a description of the limitation of assigning average acres and average yields across state lines, and information regarding the manner in which the assignments must be made and the time periods and manner in which the notice of the assignments must be submitted to the Secretary.

The amendment further states the Secretary shall provide for an adjustment in the base acres for peanuts for a farm whenever a conservation reserve contract with respect to the farm expires or is voluntarily terminated, or the Secretary releases cropland from coverage under a conservation reserve contract. Also included is a provision to allow the owner of a farm to reduce at any time the base acres for peanuts assigned to the farm. (Section 1302)

The Managers are aware that AMTA contract acreage was not protected on acreage enrolled into CRP during CRP signups 15 and later. The Managers intend that the Secretary develop a method that provides for the restoration of base acreage on farms that permanently reduced contract acreage because of enrollment in CRP. Since soybeans and other oilseeds did not have contract acreage prior to this Act, the Managers expect the Secretary to treat soybeans and other oilseeds in a manner that is similar and consistent with other covered commodities. (Section 1302)

(42) Availability of fixed, decoupled payments for peanuts.

The House bill provides that for each of the 2002 through 2011 crop years, the Secretary shall make fixed, decoupled payments to peanut producers on a farm. The payment rate used to make fixed, decoupled payments with respect to peanuts for a crop year shall be equal to \$36 per ton.

The amount of the fixed, decoupled payment to be paid to the peanut producers on a farm for a covered commodity for a crop year shall be equal to the product of the payment rate, the payment acres and the payment yield.

Fixed, decoupled payments shall be paid not later than September 30 of each of the fiscal years 2002 through 2011. In the case of the 2002 crop, payments may begin to be made on or after December 1, 2001.

At the option of a peanut producer, 50 percent of the fixed, decoupled payment for a fiscal year shall be paid on a date selected by the peanut producer. The selected date shall be on or after December 1 of that fiscal year, and the peanut producer may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If a peanut producer that receives an advance fixed, decoupled payment for a fiscal year ceases to be a peanut producer before the date the fixed, decoupled payment would otherwise have been made by the Secretary, the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment. (Section 163)

The Senate amendment provides that for each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 158B. The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to \$0.018 per pound.

The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying the payment rate, the payment acres, and the payment yield.

The Secretary shall make direct payments in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm. The selected date for a fiscal year shall be on or after December 1 of the fiscal year. The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary, the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment. (Section 151)

The Conference substitute adopts the House provision with an amendment to clarify payment rules for the 2002 crop year by directing the Secretary to make direct payments to historic peanut producers for the 2002 crop year. For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to \$36 per ton. (Section 1303)

(43) Availability of Counter-Cyclical Payment for Peanuts.

The House bill provides that during the 2002 through 2011 crop years for peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts whenever the Secretary determines that the effective price for peanuts is less than the target price.

The effective price for peanuts is equal to the sum of higher of either (A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or (B) the national average loan rate for a marketing assistance loan for peanuts in effect for the same period under this chapter; and the payment rate in effect under section 163 for the purpose of making fixed, decoupled payments.

The target price for peanuts is \$480 per ton.

The payment rate for counter-cyclical payments is equal to the difference between the target price for peanuts and the effective price for the peanuts.

The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product of the payment rate, the payment acres, by the payment yield.

The Secretary shall make counter-cyclical payments for a peanut crop as soon as possible after determining that such payments are required for that crop year.

The Secretary may permit, and, if so permitted, a peanut producer may elect to receive, up to 40 percent of the projected counter-cyclical payment, as determined by the Secretary, to be made under this section for a peanut crop upon completion of the first six months of the marketing year for that crop. The peanut producer shall repay the Secretary the amount, if any, by which the partial payment exceeds the actual counter-cyclical payment to be made for that crop. (Section 164)

The Senate amendment provides for each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

The effective price for peanuts is equal to the total of the greater of either (A) the national average market price received by peanut producers during the 12-month marketing year for peanuts or (B) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the 12-month marketing year for peanuts under this chapter; and the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

The income protection price for peanuts is \$520 per ton.

The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying the payment rate, the payment acres, by the payment yield.

The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between the income protection price for peanuts and the effective price for peanuts.

The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first six months of the marketing year

for the crop. The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section. (Section 151)

The Conference substitute adopts the Senate provision with an amendment to clarify payment rules for the 2002 crop year by directing the Secretary to make counter-cyclical payments to historic peanut producers for the 2002 crop year. For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

The amendment changes the effective price definition to state the effective price for peanuts is equal to the sum of the higher of (a) the national average market price for peanuts received by producers during the 12-month marketing year for peanuts or (b) the national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle; plus the payment rate in effect under section 1303 for the purpose of making direct payments.

If before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) the option to receive partial payments of the counter-cyclical payment projected to be made for that crop.

When the Secretary makes partial payments for any of the 2002 through 2006 crop years the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested; the second partial payment shall be made not earlier than February 1 of the next calendar year; and the final payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

When the Secretary makes partial payments available for the 2007 crop year the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

In the case of the 2002 crop year, the first partial payment to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the 2002 crop year and the amount of the first partial payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the historic peanut producer and the amount of the partial payment already made to the historic peanut producers under clauses (i) and (ii).

For each of the 2003 through 2006 crop years, the first partial payment to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the 2002 crop year and the amount of the first partial payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producers for that crop year and the amount of the partial payment already made to the producers under clauses (i) and (ii) for that crop year.

For the 2007 crop year, the first partial payment to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for that crop year, as determined by the Secretary. The final payment for the 2007 crop year shall be equal to the difference between the actual counter-cyclical payment to be made to the producers for that crop year and the amount of the partial payment made to the producers under clause (i).

The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year. (Section 1304)

The target price for peanuts shall be equal to \$495 per ton. (Section 1304)

(44) Producer Agreement Required As Condition On Provision of Fixed, Decoupled Payments and Counter-Cyclical Payments.

The House bill provides that before the peanut producers on a farm may receive fixed, decoupled payments or counter-cyclical payments with respect to the farm, the peanut producers shall agree, in exchange for the payments to comply with applicable conservation and wetland protection requirements, to comply with the planting flexibility requirements, and to use the land on the farm, in an amount equal to the peanut acres for an agriculture or conserving use.

The Secretary may issue such rules as the Secretary considers necessary to ensure peanut producer compliance with the requirements of paragraph (1).

A peanut producer may not be required to make repayments to the Secretary of fixed, decoupled payments and counter-cyclical payments if the farm has been foreclosed on and the Secretary determines that the forgiving the repayments is appropriate to provide fair and equitable treatment.

This subsection shall not void the responsibilities of the peanut producer under subsection (a) if the peanut producer continues or resumes operation or control of the farm.

On the resumption of operation or control over the farm by the producer, the requirements of subsection (a) in effect on the date of foreclosure shall apply.

Except as provided in paragraph (4), a transfer or change in the interest of a peanut producer in peanut acres for which fixed, decoupled payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall be effective on the date of the transfer or change.

There is no restriction on the transfer of a farm's peanut acres or payment yield as part of a change in the peanut producers on the farm.

At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

If a peanut producer entitled to a fixed, decoupled payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

As a condition on the receipt of any benefits under this chapter, the Secretary shall require peanut producers to submit to the Secretary acreage reports.

In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of fixed, decoupled payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis. (Section 165)

The Senate amendment provide that before the peanut producers on a farm may receive direct payments or counter cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for payments to comply with applicable highly erodible land conservation requirements, to comply with applicable wetland conservation requirements, to comply with planting flexibility requirements, and to agree to use a quantity of the land on the farm equal to peanut acres for an agriculture or conserving use.

The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a), if the peanut producers on the farm continue or resume operation, or control, of the farm.

On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

Except as provided in paragraph (5), a transfer of or change in the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination takes effect on the date of the transfer or change.

The Secretary shall not impose any restrictions on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis. (Section 151)

The Conference substitute provides that before producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements, to use the land on the farm in a quantity attributable to the base acres for an agricultural or conserving use and not for a nonagricultural commercial or industrial use, as determined by the Secretary and on noncultivated land attributable to the base acres, control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

The Secretary may issue rules to ensure compliance with these requirements.

At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

A transfer of (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees to assume all obligations under conservation, wetland, planting flexibility, agriculture land use provisions and controlling noxious weeds provisions. The termination shall take effect on the date determined by the Secretary.

If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

A producer who receives direct payments, counter-cyclical payments, or marketing loan benefits is required to submit annual acreage reports with respect to all cropland on the farm to the Secretary.

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

When there is a transfer (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made, the Managers intend for the Secretary to provide a time frame for the succession to occur that is farmer-friendly.

Acreage reports provide important information such as assisting in determining the eligibility of land to be accepted into the Conservation Reserve Program. The Managers are aware that in prior years, the Secretary has imposed penalties on producers that submit acreage reports that the Secretary later determines to be inaccurate. The Managers understand that under prior acreage limiting and acreage reduction programs there was a need for very accurate reporting. However, under this Act, with the exception of determining the amount of fruits, vegetables, and wild rice planted on base acreage, there is no such need or requirement for the level of accuracy. Therefore, under this provision the Managers do not intend for any penalty to be applicable to inaccurate acreage reports on covered commodities or peanuts, provided the producer has made a good faith effort to accurately report acreage. (Section 1305)

(45) Planting Flexibility.

The House bill provides that generally, producers may plant any commodity on the peanut acres of a farm, except fruits and vegetables (other than lentils, mung beans, and dry peas), and wild rice.

Paragraph (1) shall not limit the planting of an agriculture commodity in (A) any region in which there is a history of double-cropping of peanuts with agriculture commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted; (B) on a farm that the Secretary determines has a history of planting agriculture commodities specified in paragraph (1) on peanut acres, except that fixed, decoupled payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agriculture commodity; or (C) by a peanut producer who the Secretary determines has an established planting history of a specific agriculture commodity specified in paragraph (1), except that the quantity planted may not exceed the peanut producer's average annual planting history of such agriculture commodity in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made); and fixed decoupled payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agriculture commodity. (Section 166)

The Senate amendment provides that generally, producers may plant any commodity on the peanut acres of a farm, except fruits and vegetables (other than lentils, mung beans, and dry peas), and in the case of the 2003 and subsequent crops of an agriculture commodity, wild rice.

Paragraph (1) shall not limit the planting of an agriculture commodity in (A) any region in which there is a history of double-cropping of peanuts with agriculture commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted; (B) on a farm that the Secretary determines has a history of planting agriculture commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agriculture commodity; or (C) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agriculture commodity specified in paragraph (1), except that the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary and direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agriculture commodity. (Section 151)

The Conference substitute adopts the House provision with an amendment that provides that the planting of fruits, vegetables (other than lentils, mung beans and dry peas) and wild rice shall be prohibited on base acreage unless the commodity, if planted, is destroyed before harvest.

The planting of fruits and vegetables produced on trees and other perennials shall be prohibited on base acres.

The Secretary shall establish a producer planting history for fruits, vegetables and wild rice planted by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years. (Section 1306)

(46) Marketing Assistance Loans and Loan Deficiency Payments For Peanuts.

The House bill provides that for each of the 2002 through 2011 crop of peanuts, the Secretary shall make available to peanut producers on a farm non-recourse marketing

assistance loans for peanuts produced on the farm. Any production of peanuts on a farm shall be eligible for a marketing assistance loan.

In carrying out this subsection, the Secretary shall make loans to a peanut producer that is otherwise eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the peanut producer are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producer obtaining the loan agrees to immediately redeem the loan collateral in accordance with section 166 of the Federal Improvement and Reform Act of 1996.

A marketing assistance loan and loan deficiency payments may be obtained at the option of the peanut producer through a designated marketing association of peanut producers that is approved by the Secretary; or the Farm Service Agency.

The loan rate for a marketing assistance loan for peanuts shall be equal to \$350 per ton.

A marketing assistance loan for peanuts under subsection (a) shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan under subsection (a).

The Secretary shall permit producers to repay a marketing assistance loan for peanuts at a rate that is the lesser of the loan rate for the commodity plus interest; or a rate that the Secretary determines will minimize loan forfeitures, accumulation of stocks, storage costs, and allow peanuts produced in the United States to be marketed freely and competitively.

The Secretary may make loan deficiency payments available to peanut producers who, although eligible to obtain a marketing assistance loan for peanuts, agree to forgo obtaining the loan for the peanuts in return for payments.

A loan deficiency payment shall be computed by multiplying the loan payment rate and the quantity of the peanuts produced by the peanut producers, excluding any quantity for which the producers obtain a loan under subsection (a).

The loan payment rate shall be the amount by which the loan rate exceeds the rate at which a loan may be repaid.

The Secretary shall make a payment under this subsection to a peanut producer with respect to a quantity of peanuts as of the earlier of (A) the date on which the peanut producer marketed or otherwise lost beneficial interest in the peanuts or (B) the date the peanut producer requests the payment.

As a condition of the receipt of a marketing assistance loan, the peanut producer shall comply with applicable conservation and wetland protection requirements, during the term of the loan.

To the extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with such activities in regard to other commodities.

This section terminates section 155 of the Federal Agriculture Improvement and Reform Act of 1996, which provided superseded price support authority. (Section 166)

The Senate amendment provides that for each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm non-recourse marketing assistance loans for peanuts produced on the farm. The producers on a farm

shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

A marketing assistance loan and loan deficiency payments may be obtained at the option of the peanut producers on a farm through (A) a designated marketing association of peanut producers that is approved by the Secretary, (B) the Farm Service Agency, or (C) a loan servicing agent approved by the Secretary.

The loan rate for a marketing assistance loan for peanuts shall be equal to \$400 per ton.

A marketing assistance loan for peanuts under subsection (a) shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts at a rate that is the lesser of the loan rate for peanuts plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs; and allow peanuts produced in the United States to be marketed freely and competitively.

The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

A loan deficiency payment shall be obtained by multiplying the loan payment rate by the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on a farm obtain a loan under subsection (a).

The loan payment rate shall be the amount by which the loan rate exceeds the rate at which a loan may be repaid.

The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of (A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary or (B) the date the peanut producers on the farm request the payment.

As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with applicable conservation and wetland protection requirements.

To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

This section terminates Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 is repealed. (Section 151)

The Conference substitute adopts the House provision with an amendment modifying the options the producer has for obtaining a marketing assistance loan and loan deficiency payments to not only include a designated marketing association and the Farm Service Agency, but also a marketing cooperative of producers.

Effective for the 2002 through 2006 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall use the funds of the Commodity Credit Corporation to pay storage, handling, and other associated costs. This authority terminates beginning with the 2007 crop of peanuts. Also included is nondiscriminatory language for individuals or entities seeking approval to store peanuts for which a marketing loan is made.

The amendment added language that a marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

The amendment added language on good faith exemptions to the beneficial interest requirement for the 2002 crop of peanuts. In the case of the producers on a farm that marketed or otherwise lost beneficial interest in the peanuts for which a marketing assistance loan was made under this section before repaying the loan, the Secretary shall permit the producers to repay the loan at the appropriate repayment rate that was in effect for peanuts under this subsection as of the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

The amendment establishes a special rule for the 2002 crop year loan deficiency payments. For the 2002 crop year only, the Secretary shall determine the amount of the loan deficiency payment to be made to the producers on a farm with respect to a quantity of peanuts using the payment rate for peanuts as of the earlier of the following: the date on which the producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary, or the date the producers request the payment.

The loan rate for a marketing assistance loan for peanuts shall be equal to \$355 per ton. (Section 1307)

The Managers encourage the Department to continue its traditional practice of accounting for all commingled peanuts such that all peanuts stored commingled with peanuts covered by a marketing assistance loan are graded and exchanged on a dollar value basis unless it is the determination of the Secretary that the beneficial interest in peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.

(47) Quality Improvement.

The House bill peanuts placed under a marketing assistance loan under section 167 shall be officially inspected and graded by Federal or State inspectors. Peanuts not placed under a marketing assistance loan may be graded at the option of the producer.

This section terminates the Peanut Administrative Committee and the Secretary is directed to establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards for peanuts. The authority of the Board is limited to assisting in the establishment of quality standards for peanuts. The members of the Board should fairly reflect all regions and segments of the peanut industry.

This section shall take effect with the 2002 crop of peanuts. (Section 168)

The Senate amendment provides that all peanuts placed under a marketing assistance loan under section 158G shall be officially inspected and graded by a Federal or State inspector. Peanuts not placed under a marketing assistance loan may be graded at the option of the peanut producers on a farm.

The Senate amendment provides that this section terminates the Peanut Administrative Committee. The Secretary shall establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards with respect to peanuts. The Secretary shall appoint members to the Board that, to the maximum extent practicable, reflect all regions and segments of the peanut industry. The Board shall assist the Secretary in establishing quality standards for peanuts.

This section shall apply beginning with the 2002 crop of peanuts. (Section 151)

The Conference substitute adopts the Senate provision with an amendment requiring all peanuts marketed in the United States to be officially inspected and graded by Federal or Federal-State inspectors.

The amendment clarifies the composition of the Peanut Standards Board, the terms for members, and provides language to transition from the Peanut Administrative Committee to the Peanut Standards Board. (Section 1308)

It is the Managers' intention that the definition of "peanut industry representatives" includes, but is not limited to, representatives of the manufacturers, shellers, buying points, marketing associations and marketing cooperatives.

The Managers expect the Secretary, when developing inspection and grading standards, to encourage the use of the latest technology and evaluation systems to eliminate costs and increase efficiency in the inspection and grading process. The Secretary should also encourage the use of the latest research and technology to assist in the elimination and prevention of aflatoxin.

(48) Payment Limitations.

The House bill provides that separate payment limitations shall apply to peanuts with respect to fixed, decoupled payments, counter-cyclical payments, and limitations on marketing loan gains and loan deficiency payments.

The Senate amendment contains no comparable provision in Chapter 3.

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed \$40,000 and \$65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is \$75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of \$40,000 and \$65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of \$75,000.

Retains current rules on husband and wife, 3-entities, actively engaged and generic certificates.

Adopts the \$2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For

example, participants who are organized as C Corporations, S Corporations, or as nonprofit organizations, the Managers intend for the Secretary to use this direction to adopt alternative income measurements that compare most closely to adjusted gross income. (Section 1309)

The Managers expect the Secretary to implement this provision in a manner that provides equitable treatment, to the maximum extent practicable to all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds \$2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary.

(49) (Termination Of Marketing Quota Programs For Peanuts And Compensation To Peanut Quota Holders For Loss Of Quota Asset Value.

The House bill repeals the marketing quota for peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938.

The marketing quota as in effect the day before the date of enactment of this Act, shall continue to apply with respect to the 2001 crop of peanuts.

The Secretary shall offer to enter into a contract with eligible peanut quota holders for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts. Under the contracts, the Secretary shall make payments to eligible peanut quota holders during fiscal years 2002 through 2006. The payments required under the contracts shall be provided in five equal installments not later than September 30 of each of the fiscal years 2002 through 2006.

The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying \$0.10 per pound by the actual farm poundage quota (excluding seed and experimental peanuts) established for the peanut quota holder's farm for the 2001 marketing year.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act, relating to the assignment of payments, shall apply to the payments made to peanut quota holders under the contracts. The peanut quota holder making the assignment or the assignee, shall provide the Secretary with notice, in such a manner as the Secretary may require, of any assignment made under this subsection.

This section defines peanut quota holder as a person or enterprise that owns a farm that was eligible, immediately before the date of the enactment of this Act, to have a peanut quota established upon it; if there are not quotas currently established, would be eligible to have a quota established upon it for the succeeding crop year; or is otherwise a farm that was eligible for such a quota at the time the general quota establishment authority was repealed.

The Secretary shall apply this definition without regard to temporary leases or transfers or quotas for seed or experimental purposes. (Section 170)

The Senate amendment provides the effective beginning with the 2002 crop of peanuts, part VI of subtitle B of title III of the Agriculture Adjustment Act of 1938 is repealed.

This section and the amendments made by this section apply beginning with the 2002 crop of peanuts.

The Secretary shall offer to enter into a contract with peanut quota holders for the purpose of providing compensation for the lost value of quota as a result of the repeal of the marketing quota program for peanuts. Under a contract, the Secretary shall make payments to an eligible peanut quota holder for each of fiscal years 2002 through 2006. The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of the fiscal years 2002 through 2006.

The amount of the payment for a fiscal year to a peanut quota holder under contract shall be equal to the product obtained by multiplying \$0.11 by the actual farm poundage quota (excluding any quantity for seed and experimental peanuts) established for the farm of a peanut quota holder for the 2001 marketing year.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act, relating to assignment of payments, shall apply to the payments made to peanut quota holders under the contracts. The peanut quota holder making the assignment, or the assignee, shall provide the Secretary with notice, in such a manner as the Secretary may require, of any assignment made under this subsection.

This section defines peanut quota holder as a person or entity that owns a farm that (I) held a peanut quota established for the farm for the 2001 crop of peanuts; (II) if there was not such a quota established for the farm for the 2001 crop of peanuts, would be eligible to have such a quota established for the farm for the 2002 crop of peanuts; (III) is otherwise a farm that was eligible for such a quota as of the effective date of the amendments made by this section.

The Secretary shall apply the definition of peanut quota holder without regard to temporary leases, transfers, or quotas for seed or experimental purposes. (Section 152)

The Conference substitute adopts the House provision with clarifying language to the quota holder definition. The quota compensation payment shall be \$0.11 per year for a total of five years. The amendment gives an option to eligible peanut quota holders entitled to payments under a contract to receive the entire payment in a single lump sum.

The amendment adds disposal language to allow the Secretary to ensure that the disposal of peanuts for which a loan for the 2001 crop was made is carried out in a manner that prevents price disruptions in the domestic and international markets for peanuts.

The amendment adds language on the effect of termination on crop insurance policies. The subsection shall apply for the 2002 crop year only notwithstanding any other provision of law or crop insurance policy. The nonquota price election for segregation I, II, and III shall be 17.75 cents per pound and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities. For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation. (Section 1310)

Subtitle D-Administration

(50) Administration Generally

The House bill provides that: (a) **USE OF COMMODITY CREDIT CORPORATION**- The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) **DETERMINATIONS BY SECRETARY**- A determination made by the Secretary under this title shall be final and conclusive.

(c) **REGULATIONS**- Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to--

- (1) the notice and comment provisions of section 553 of title 5, United States Code;
- (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking, and
- (3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

(d) **PROTECTION OF PRODUCERS**- The protection afforded producers that elect the option to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212 note) shall also apply to the advance payment of fixed, decoupled payments and counter-cyclical payments.

(e) **ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND**

COMPLIANCE- If the Secretary determines that expenditures under subtitles A, B, and C that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7))), as in effect on the date of the enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary may make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed, but in no case are less than, such allowable levels. (Section 181)

The Senate amendment provides that:(a) **IN GENERAL**.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) **PROCEDURE**.—The promulgation of the regulations and administration of title I and sections 456 and 508 and the amendments made by title I and sections 456 and 508 shall be made without regard to—

- (1) the notice and comment provisions of section 553 of title 5, United States Code;
- (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) **CONGRESSIONAL REVIEW OF AGENCY RULE-**

MAKING.—In carrying out subsection (b), the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Amends Section 161 of the FAIR Act to allow the Secretary to adjust the amount of domestic support to assure compliance with Uruguay Round obligations.

Requires the Secretary to report to Congress of intent to make adjustment and allows adjustment unless a joint resolution disapproving the adjustments is enacted by both Houses of Congress within 60 days.

Requires annual reports on domestic support by April 30 of each year. (Section 164 and 1099)

The Conference substitute adopts the House provision with an amendment that provides for the Secretary, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

Before making any adjustment, the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the determination made and the extent of the adjustment made.

The Conference has made it a priority to craft a program that provides assistance to producers in a way that is consistent with our obligations under the Uruguay Round Agreement on Agriculture. (Section 1601)

(51) Extension of Suspension of Permanent Price Support Authority.

The House bill amends Section 171 of the FAIR Act.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938- Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(a)(1)) is amended by striking '2002' both places it appears and inserting '2011'.

(b) AGRICULTURAL ACT OF 1949- Section 171(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(b)(1)) is amended by striking '2002' both places it appears and inserting '2011'.

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS- Section 171(c) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(c)) is amended by striking '2002' and inserting '2011'. (Section 182)

The Senate amendment amends Section 171 of the Fair Act.

Section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301) is amended—

(1) by striking “2002” each place it appears and inserting “2006”; and

(2) in subsection (a)(1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively. (Section 165)

The Conference substitute adopts the House provision with an amendment. (Section 1602)

(52) Commodity Purchases

The Senate Amendment provides new mandatory spending for commodity purchases with a specific amount for specialty crops, for the Department of Defense nutrition program and for the Emergency Food Assistance Program. (Section 166)

The House Bill contains no similar provision.

The Conference Substitute adopts the Senate provision with an amendment to provide a minimum of \$200 million per year from Section 32 funds for the purchase of fruits, vegetables and other specialty food crops. A minimum of \$50 million per year of these funds is to be spent on the Department of Defense Fresh Program. And the Secretary shall submit a report not later than 1 year after the date of the enactment of this

Act, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that analyzes by type the commodities purchased under this section as well as by type the commodities purchased using all other Section 32 funds. (Section. 10603)

The Managers intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables, over and above the purchases made under current law or that might otherwise be made without this authority. The Managers expect the \$200 million to be a minimum amount for fruit and vegetable purchases under Section 32 funds; it is not intended to interfere with or decrease from Agricultural Marketing Service's historical purchases of fruits and vegetables [e.g. \$243 million in 2001; \$232 million in 2000] or to decrease or displace other commodity purchases. It is the Managers' further intention that tree nuts may be included in the Secretary's definition of "other specialty food crops" purchases for this section. The Managers intend that none of the amounts made available under this section for the purchases of fruits, vegetables, and other specialty food crops may be used to purchase apples for 2002 and 2003. The Secretary may continue to purchase apples under other existing authority.

The amendment requires that a minimum of \$50 million from the \$200 million made available under section 10603 be used exclusively for additional purchases of fresh fruits and vegetables for the schools through the "DoD Fresh" program. The Department of Agriculture currently provides \$25 million in funding each year for the purchase of fresh fruits and vegetables for the schools, pursuant to existing authority under the School Lunch Act. Through a 1995 memorandum of agreement between the Agricultural Marketing Service, the Food & Consumer Service, and the Defense Personnel Support Center, the Department of Defense serves as the servicing agency for the procurement of these fresh fruits and vegetables through the "DoD Fresh" program. The Managers strongly support efforts to fully utilize this program to assist small businesses, specialty crop producers, and schools in providing greater quantities of fresh fruits and vegetables in USDA feeding programs, and expects the Secretary to review the effectiveness of the program in meeting these goals on an on-going basis.

(53) Hard White Wheat Incentive Payments

The Senate amendment amends Sec. 193 of the FAIR Act. For crop years 2003 through 2005, this section requires the Secretary to use \$40 million of funds of the Commodity Credit Corporation to provide incentive payments to producers of hard white wheat. The program offers wheat producers an alternative crop to meet a growing international market opportunity. (Section 167)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides for the 2003 through 2005 crop years, a total of \$20 million in hard white wheat incentive payments to growers that demonstrate that buyers and end-users are available for the wheat to be covered by the incentive payment. (Section 1616)

(54) Limitations.

The House bill amends section 1001 of the Food Security Act of 1985 to delete the references to production flexibility contract and AMTA and include fixed, decoupled and counter-cyclical payment limitations. The total fixed, decoupled payments and counter-cyclical payments to a person may not exceed \$50,000 and \$75,000, respectively.

The total of marketing loan gains and loan deficiency payments that a person is entitled to receive is \$150,000.

Peanuts, honey and wool and mohair have limitations for the applicable programs separate from other commodities. (Section 183)

The Senate amendment amends Section 1001 of the Food Security Act of 1985. The total of direct and counter-cyclical payments that an individual or entity may receive during any fiscal year for program commodities shall not exceed \$75,000. The total of marketing loan gains, forfeiture gains, gains from marketing certificates and loan deficiency payments that a person is entitled to receive for program crops, peanuts, honey and wool is \$150,000 per crop year.

During a fiscal and corresponding crop year, the total amount of payments and benefits that a married couple may receive from direct, counter-cyclical and marketing loan is \$75,000 and \$150,000 respectively, plus a combined total of an additional \$50,000. (Section 169)

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed \$40,000 and \$65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is \$75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of \$40,000 and \$65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of \$75,000.

Retains current rules on husband and wife, 3-entities, actively engaged, generic certificates and adopts the \$2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For example, participants who are organized as C Corporations, S Corporations, or as nonprofit organizations, the Managers intend for the Secretary to use this direction to adopt the use of income measure terms that compare most closely to adjusted gross income. The Managers expect the Secretary to implement this provision in a manner that provides equal treatment, to the maximum extent practicable across all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds \$2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary. (Section 1603)

(55) Adjustments of Loans.

The House bill extends current authority to adjust loans so, to the maximum extent practicable, the average loan level for a commodity will be equal to the level of support determined appropriate under this Act. (Section 184)

The Senate amendment retains current law as section 162 of the FAIR Act with “loan commodity” reference. (Section 171)

The Conference substitute adopts the House provision. (Section 1606)

(56) Personal Liability of Producers for Deficiencies.

The House bill amends Section 164 of the FAIR Act by striking “this title” and inserting “this title and title I of the Farm Security Act of 2001”. The liability of a producer is limited if the collateral securing any nonrecourse loan is sold as long as the sale was not fraudulent. (Section 185)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1607)

(57) Extension of Existing Administrative Authority Regarding Loans.

The House bill amends Section 166 of the FAIR Act. The full protection of marketing loan assistance to producers is extended under this Act. (Section 186)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that includes a reference to this Act. (Section 1608)

(58) Assignment of Payments.

The House bill provides that producers may assign any payments received under this Act by providing notice in a manner prescribed by the Secretary. (Section 187)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1612)

(59) Report On Effect of Certain Farm Payments

The House bill requires the Secretary to review the effects that payments under production flexibility contracts and market loss assistance payments have had, and that fixed, decoupled and counter-cyclical payments are likely to have, on the economic viability of producers and the farming infrastructure. The review shall include a case study on the effects these payments are likely to have on rice producers, millers and the economies of rice farming areas in Texas. (Section 187)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section ???)

(61) Reserve Stock Level.

The Senate amendment reduces the reserve stock level for Flue-cured tobacco from 100 million pounds (farm sales weight) to 75 million pounds or 10 percent of the national marketing quota. (Section 162)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that reduces the reserve stock level for Flue-cured tobacco from 100 million pounds (farm sales weight) to 60 million pounds. (Section 1610)

(62) Farm Reconstitutions.

The Senate amendment provides for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease of tobacco quota. Requires a study on the effects of limitation on producers who move quota. (Section 163)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1611)

(63) Livestock Assistance Program.

The Senate amendment authorizes appropriations of \$500 million for each of fiscal years 2003 through 2008 for the livestock assistance program. (Section 168)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 10104)

(64) Restriction of Commodity and Crop Insurance Payments, Loans and Benefits to Previously Cropped Land.

The Senate amendment restricts commodity and crop insurance payments to previously cropped land. To be eligible for benefits, land must have been planted, considered planted or devoted to an agricultural commodity (excluding forage, livestock, timber, forest products, or hay) at least 1 of the 5 crop years preceding the 2002 crop year, or at least 3 of the 10 crop years preceding the 2002 crop year, or at least 1 of the 20 crop years preceding 2002 crop year if the land has been maintained, using long-term crop rotation practices.

There are exceptions for land enrolled in the conservation reserve program and land under the jurisdiction of an Indian tribe. (Section 170)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(65) Reports of Equitable Relief and Misaction-Misinformation Requests.

The Senate amendment requires the Secretary to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report that describes the requests for equitable relief. (Section 172)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides State Executive Directors of the Farm Service Agency and State Conservationists with the Natural Resource Conservation Service authority to grant relief in special circumstances. In addition, a report is required to be provided annually that describes for the previous calendar year, the number of requests for equitable relief and the disposition of the requests. (Section 1613)

(66) Estimates of Net Farm Income

The Senate amendment requires the Secretary to include—

“(1) an estimate of the net farm income earned by commercial producers in the United States; and

“(2) an estimate of the net farm income attributable to commercial producers of each of—

“(A) livestock;

“(B) loan commodities; and

“(C) agricultural commodities other than loan commodities.” (Section 173)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1615)

(67) Commodity Credit Corporation Inventory

The Senate amendment authorizes the Commodity Credit Corporation to use of private sector entities when purchasing and selling commodities. (Section 174)

The House bill contains no comparable provision.

The Conference substitute accepts the Senate provision. (Section 1609)

(68) Agricultural Producers Supplemental Payments and Assistance

The Senate amendment authorizes the Secretary to make payments to persons who are eligible to receive assistance under Public Law 107-25 but who did not receive the payments or assistance prior to October 1, 2001.

The amount of payments or assistance shall not exceed the amount of payments or assistance the person would have been eligible to receive under Public Law 107– 25.

The House bill contains no comparable provision.

The Conference substitute accepts the Senate provision with an amendment to also include producers participating in 1998, 1999, 2000 or 2001 economic or disaster assistance programs that have not been paid. (Section 1617)

Subtitle E-Payment Limitation Commission

(69) Establishment of Commission.

The Senate amendment establishes commission, specifies membership, establishes terms, meetings, quorum, and provides that the Secretary appoint one commissioner to serve as Chair. (Section 181)

The House bill contains no comparable provision.

The Conference substitute provides for the establishment of a Commission on the Application of Payment Limitations for Agriculture.

The Commission shall be composed of 10 members of which 3 members are appointed by the Secretary of Agriculture, 3 members by the Committee on Agriculture, Nutrition and Forestry of the Senate, 3 members by the Committee on Agriculture of the House of Representatives and the Chief Economist of the Department of Agriculture.

The Managers encourage the appointing authorities to ensure that the membership of the commission has a diversity of experiences and expertise on the issues to be studied by the Commission. (Section 1605)

(70) Duties.

The Senate amendment requires the commission to conduct a comprehensive review of payment limitations. (Section 182)

The House bill contains no comparable provision.

The Conference substitute requires that the Commission conduct a study on the potential impacts of further payment limitations on the receipt of direct payments, counter-cyclical payments, and marketing loan gains and loan deficiency payments on farm income, land values, rural communities, agribusiness infrastructure, planting decisions, supply and prices of covered commodities and other agriculture commodities, including fruits and vegetables.

Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report containing the results of the study, including such recommendations as the Commission considers appropriate.

The Managers intend for the Commission to examine the feasibility of improving the application and effectiveness of payment limitation requirements, including the use of commodity certificates and unlimited forfeiture of loan collateral. (Section 1605)

(71) Powers.

The Senate amendment authorizes the commission to hold hearings and obtain information from Federal agencies. (Section 183)

The House bill contains no comparable provision.

The Conference substitute provides that the Commission may hold such hearings, meet and act, take testimony and receive evidence the Commission considers advisable to carry out their duties. (Section 1605)

(72) Commission Personnel Matters.

The Senate amendment provides for compensation of members. (Section 184)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1605)

(73) Federal Advisory Committee Act.

The Senate amendment exempts the commission from the Federal Advisory Committee Act. (Section 185)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1605)

(74) Funding

The Senate amendment authorizes the Secretary to use not more than \$100,000 of the funds of the CCC to carry out this subtitle. (Section 186)

The House bill contains no comparable provision.

The Conference substitute provides that the Commission may use the mail in the same manner and under the same conditions as other agencies of the Federal Government, allows the Secretary to provide appropriate office space and allows for the reimbursement of travel expenses. (Section 1605)

(75) Termination of Commission.

The Senate amendment provides that the Commission terminates on the day after the Commission submits its report. (Section 187)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

Subtitle F—Emergency Agriculture Assistance

(76) Income Loss Assistance.

The Senate amendment provides \$500 million in emergency livestock assistance for 2001 losses. (Section 192)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(77) *Market Loss Assistance for Apple Producers.*

The Senate amendment provides \$100 million for apple producers for the loss of markets during the 2000 crop year and further specifies payment quantity and payment/eligibility limitations parameters. (Section 193)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to provide \$94 million to apple producers for the loss of markets during the 2000 crop year, payment quantity parameters are retained, the Secretary shall not establish a payment limitation or an income eligibility limitation with respect to payments made on the payment quantity of 5 million pounds of apples produced on the farm; and promulgation of regulations and administration of this section will be exempt from the rulemaking requirements and Paperwork Reduction Act. Also provides \$10 million as a grant to the State of New York to be used to support current onion producers in Orange County, New York, who have suffered losses to onion crops during one or more of the 1996 through 2000 crop years. (Section 10105)

(78) *Commodity Credit Corporation*

The Senate amendment authorizes the Secretary to use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle. (Section 194)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(79) *Administrative Expenses*

The Senate amendment authorizes the transfer of \$50 million from the Treasury to the Department of Agriculture to pay salaries and expenses in carrying out this subtitle. (Section 195)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(80) *Regulations*

The Senate amendment authorizes the Secretary to promulgate rules and regulations to implement this subtitle. (Section 196)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(81) *Emergency Requirement*

The Senate amendment designates the entire amount necessary to carry out this subtitle as emergency spending. (Section 197)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE II -- CONSERVATION

Subtitle A – Conservation Security Program

(1) *Conservation Security Act*

The Senate amendment establishes the Conservation Security Program (CSP) and provides the applicable definitions. (Section 201 (Section 1238))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The Managers expect the Secretary to implement the CSP to encourage the widest participation possible at a level that ensures resources are protected at a non-degradation level. (Sec. 2001)

(2) Conservation Security Program

The Senate amendment establishes the CSP for fiscal years 2003 through 2006 to assist producers in implementing various conservation practices as applicable for each individual operation. Eligible lands include private cropland, grassland, prairie land, pasture land and rangeland and private forest land in agro-forestry practices.

The Senate amendment establishes three tiers of conservation contracts that provide flexibility to farmers. Eligible practices may include the continuation of some practices combined with the adoption of new practices. Producers must adopt or maintain practices to address a resource concern of the operation, such as soil or water quality.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The CSP, which is open to all producers for maintaining or adopting practices on private agricultural land, will be established from fiscal years 2003 through 2007. Only private agricultural lands and forested land that is incidental to an agricultural operation is eligible for enrollment. Lands enrolled in the Conservation Reserve Program (CRP), the Wetlands Reserve Program (WRP), or the Grasslands Reserve Program (GRP) and not eligible for enrollment, nor are lands that have not been cropped for more than four out of the past six years. This change is to help discourage producers from using the program as an inducement to cultivate land. Because this is a working lands program, producers will be allowed economic use of the land, in a manner consistent with the program. (Section 2001)

Agricultural producers are longtime stewards of America's lands. In establishing the CSP, the Managers recognize the need to support ongoing stewardship by providing incentive payments for producers to maintain and enhance conservation practices at a non-degradation level.

The Managers intend to assist agriculture producers to concentrate on resource problems, including soil, air, water, plant and animal (including wildlife) and energy conservation, on their particular operation using a broad array of conservation practices. Participation does not require a producer to address a locally-identified priority. Instead, a producer may receive an enhanced payment for addressing locally-identified priorities which will be determined by the state technical committees working with local working groups and agricultural producers. Overall, the Managers intend that the enhanced payments be used to ensure and optimize environmental benefits. The enhanced payments should reward producers who go beyond the minimum requirements of the program to address additional resource concerns.

The Managers intend that the Secretary shall provide base payments based on the average national rental rate for the specific land use type. The Managers encourage the Secretary to look at alternative approaches for a base payment that is not based on rental

rates. In applying another appropriate rate to ensure regional equity, the Secretary shall not provide a rate lower than the national average rental rate.

The Managers intend the Secretary will not employ an environmental bidding or ranking system in implementing CSP and approve should approve a producer's contract that meets the standards of the program. The Managers are aware that many agricultural producers who want to adopt conservation practices have not had access to conservation program funding. Together, with the overall increase in funds for all conservation programs, agriculture producers who chose to employ conservation practices should have access to funding.

The Secretary should provide cost-share payments at a rate not exceeding 75 per cent. The Secretary should provide cost-share assistance at a comparable rate as that provided under the Environmental Quality Incentives Program for the same practices. In limiting cost-share for land-based structures, payments should be limited to those structures that are integral to the land-based conservation system.

The Managers expect the Secretary to implement the CSP in a manner that will allow all agricultural producers, including fruit and vegetable producers and livestock producers, to participate equitably in the program. The Managers also direct the Secretary to begin CSP at the full national level as soon as practicable.

While CSP is directed toward practices on working agricultural lands, the Managers recognize that some land use practices may involve alternative uses of the land, such as providing for wildlife habitat or the corners on center-pivot irrigation systems, and expect the Secretary to include these parcels, when incidental to the operation, as part of the CSP contract.

The Managers are aware of the unique conservation and production practices utilized by specialty crop growers throughout the United States. The Managers expect the Department to ensure that adequate resources are made available for specialty crop conservation practices under CSP. They also expect that, in carrying out the financial assistance provisions of various conservation programs the unique production practices involved in fruit and vegetable production, are taken into account when drafting and implementing regulations to carry out those programs.

(3) Partnerships and Cooperation

The Senate amendment allows the Secretary to designate special projects and enter into agreements with nonfederal entities to provide enhanced technical and financial assistance to be used by owners to meet the purposes of the Clean Water Act, Safe Drinking Water Act and Clean Air Act, and other Federal, state or local laws, and to address environmental issues associated with watersheds of special significance or other geographic areas of environmental sensitivity such as wetlands.

It also allows the Secretary to provide incentive payments to producers participating in special projects to encourage partnerships and sharing of technical and financial resources among owners, producers, government and non-governmental organizations and to adjust the application of eligibility criteria, approved practices, innovative conservation practices and other elements of the conservation programs to better reflect unique local circumstances, if consistent with environmental enhancement and purposes and requirements of the title. Participating parties must submit a plan to the Secretary. The purposes of the special projects include the installation of systems affecting multiple agricultural operations and innovative techniques. This provision

directs the Secretary to use 5 percent of the funds made available for the EQIP to carry out special projects consistent with the purposes of EQIP. (Section 203) The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The Secretary may enter into agreements to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production. The Secretary may provide incentives for special projects to encourage partnerships and enrollments of optimal conservation value. (Section 2003)

The Managers intend for the Secretary to use this authority to help producers avoid the need for further federal and state regulation to protect clean water and air. The Secretary is strongly encouraged to be proactive in establishing partnerships in critical areas such as the Chesapeake Bay.

(4) Administrative Requirements for Conservation Programs

(a) Good-faith reliance

The Senate amendment requires the Secretary to provide relief to owners, operators or producers injured by good faith reliance based on an action or on the advice of an employee of the Secretary.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision due to the adoption of a general good faith reliance provision covering both the commodity and conservation titles. (Section 2004)

(b) Education, assessment and evaluation

The Senate amendment requires the Secretary to provide education, outreach, training, monitoring, evaluation, and technical assistance to agricultural producers. Allows Secretary to enter contracts with nonfederal entities to provide these services.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Secretary has been providing education and outreach to agricultural producers, beginning farmers and ranchers and Indian tribes. The Managers intend that education, monitoring, and assessment of the programs under Subtitle D of the 1985 Food Security Act be conducted as a part of the technical assistance for these programs. In carrying out these activities, the Managers would also expect the Secretary to utilize the experience and expertise of outside entities such as, states (including state agencies and local units of government), educational institutions, and non-profit groups with a demonstrated history of working with agricultural producers. The Managers expect \$10 million per year from technical assistance funds for the conservation programs to be used for these purposes.

(c) Beginning and limited-resource farmers

The Senate amendment allows the Secretary to provide beginning farmers and ranchers and Indian tribes and limited-resource producer incentives to participate in conservation programs.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision for beginning farmers and ranchers. (Section 2004)

(d) Maintenance of conservation data

The Senate amendment requires the Secretary to maintain data concerning conservation plans and programs.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2004)

(e) Mediation

The Senate amendment requires the Secretary to provide aggrieved producers mediation services or an informal hearing on the matter.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2004)

(f) Privacy

The Senate amendment directs the Secretary to ensure the privacy of individual information provided to USDA to secure technical or financial assistance for conservation programs. Information may be released to the Attorney General to enforce programs. (Section 204)

The House bill amended the Freedom of Information Act to provide similar protections for producer-provided information.

The Conference substitute adopts the Senate provision with modification.

(g) Cooperation with tribal governments

The Senate amendment directs the Secretary to cooperate with the tribal government of Indian tribes when administering lands under the jurisdiction of an Indian tribe.

The House bill contains no comparable provision.

The Conference substitute deletes this provision due to the adoption of similar provisions in the Miscellaneous Title. (Section 2004)

(5) Reform and Assessment of Conservation Programs

The Senate amendment directs the Secretary to develop a plan for coordinating conservation plans and programs to facilitate implementation and delivery of conservation programs and provide a report to Congress within 180 days after enactment of this Act. (Section 205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. (Section 2005)

(6) Conservation Security Program Regulations

The Senate amendment states that the Secretary may promulgate regulations for implementation of the CSP upon enactment of this Act. (Section 206)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 2702)

(7) Conforming Amendments

The House bill reauthorizes the Environmental Conservation Acreage Reserve Program (ECARP) through 2011 and removes provisions establishing conservation priority areas. (Section 201)

The Senate amendment renames the ECARP the Comprehensive Conservation Enhancement Program (CCEP), reauthorizes the CCEP programs through 2006, and directs the Secretary to give priority to areas in which designated land would facilitate the most rapid completion of projects that are ongoing as of the date of the application. (Sections 207 and 211)

The Conference substitute adopts the Senate provision, with a modification that removes priority areas from CCEP as well as the reference to priority being given to the most rapid completion of projects. Also, the substitute extends the program to 2007. (Section 2006)

The Managers find that bobwhite quail are a valued traditional symbol of farmed landscapes, but their populations have declined by two-thirds since 1980. The Managers further find that the success of the Southeast Quail Study Group's new "Northern Bobwhite Conservation Initiative" is largely dependent upon land management actions by agricultural producers and non-industrial private forestland owners. The Managers further find that many conservation programs of this farm bill have large potential to contribute to bobwhite quail habitat objectives and encourage the Secretary to support the goal of restoring habitat for this species.

The Managers intend that the CRP, the CREP, the Wildlife Habitat Incentives Program (WHIP), the EQIP, the WRP, the GRP, the CSP and other USDA programs could be helpful in supplementing the Comprehensive Everglades Restoration Program. The Secretary is encouraged to work with appropriate state and federal officials to develop and implement a coordinated plan toward this end.

Subtitle B - Conservation Reserve Program

(1) Reauthorization

The House bill reauthorizes the CRP through 2011 and adds conservation and improvement of wildlife resources to the scope of the program's purpose. (Section 211)

The Senate amendment reauthorizes the CRP through 2006. (Section 212(a))

The Conference substitute adopts the House provision with a modification that extends the program to 2007. (Section 2101)

(2) Enrollment

The House bill modifies language on land eligibility to add: (1) marginal pasturelands devoted to natural vegetation in or near riparian areas or for similar water quality purposes, (2) land that the Secretary determines will contribute to the degradation of soil, water or air quality or poses an environmental threat if permitted to remain in production, (3) land where soil, water and air quality objectives cannot be achieved under the Environmental Quality Incentives Program (EQIP), and (4) land where enrollment would contribute to the conservation of ground or surface water. (Section 212(a))

The Senate amendment modifies language on vegetative cover, providing that in the case of marginal pastureland, an owner or operator shall not be required to plant trees if the land is to be restored as a wetland or with appropriate native riparian vegetation. (Sec. 212 (g))

The Conference substitute adopts the House provision with a technical change. Marginal pastureland should be devoted to appropriate vegetation, including trees, in or near riparian areas or for similar water quality purposes, including marginal pastureland converted to wetlands or established as wildlife habitat. (Section 2101)

The Conference substitute adopts the House provision on land which would contribute to degradation of soil, water or air quality if permitted to remain in production. The substitute also adopts the provision on land where enrollment would contribute to the conservation of ground or surface water, with modification that land may only be

enrolled where the measure would provide a net savings in ground or surface water resources on the agricultural operation of the producer. This is a new factor, under CRP, that should not be given a significant increase in points under the Environmental Benefits Index. (Section 2101)

(3) Eligibility and Cropping History

The House amendment modifies the language on eligibility to limit enrollment of land that has not been in production for at least four years.

The Senate amendment modifies language on eligibility of highly-erodible cropland that cannot be farmed in accordance with a conservation plan, and requires that the land have a cropping history or be considered to have been planted for three of the six years preceding the enactment of this legislation, and modifies language on land eligibility to add: (1) the portion of land in a field in cases where more than 50 percent of the land in the field is enrolled as a buffer, and (2) land (including land with no cropping history) enrolled through the continuous sign-up program or Conservation Reserve Enhancement Program (CREP). (Section 212 (b))

The Conference substitute adopts the Senate provision, with modification requiring that land have a cropping history or be considered to have been planted for four of the six years preceding the enactment of this legislation to be eligible. The Managers are concerned about reports that producers are planting crops on non-cropped lands as a means of being eligible to participate in CRP. This language is intended to prevent the enrollment of these lands under CRP. (Section 2101)

The Conference substitute deletes the Senate provision on land, other than cropland, being enrolled in the continuous sign-up program. However, the Managers understand the Secretary is currently reviewing the land eligibility criteria, including the eligibility of non-cropland that could be restored to serve as buffers. The Managers expect the Secretary to do this examination expeditiously. (Section 212(b)) (Section 2101)

The Conference substitute adopts the Senate provision with modification on the eligibility of partial fields. The provision allows producers to enroll entire fields through the continuous CRP as buffers in cases in which more than 50 percent of the field is eligible for enrollment and the remainder of the field is infeasible to farm. The modification restricts payments on the remaining acreage to general sign-up rates. (Section 212 (b)(1)(B)) (Section 2101)

The Managers intend the USDA to allow prescribed burning and other measures that are intended to enhance forage for the benefit of pheasants and other wildlife species on land enrolled in the CRP.

In carrying out the CRP, the Managers direct the Secretary to evaluate qualifications and criteria relating to spring wind erosion of sandy soils not currently recognized by the Wind Erosion Equation.

The Managers expect the Secretary to develop ways to make land prone to frequent seasonal flooding, such as 3 out of the last 5 years, eligible for enrollment in the CRP, including, but not limited to, designating the area as a conservation priority area.

(4) Acreage Limitations

The House bill increases the acreage cap to 39.2 million acres. (Section 212(b))

The Senate amendment increases the acreage cap to 41.1 million acres. (Section 212 (c))

The Conference substitute adopts the House provision on raising the acreage cap to 39.2 million acres. (Section 2101)

(5) Priority Areas

The House bill deletes priority areas and requires that on the expiration of a CRP contract the land shall be eligible to be considered for re-enrollment in the program. (Section 212)

The Senate amendment modifies language regarding priority areas to direct the Secretary to give priority to areas in which designated land would facilitate the most rapid completion of projects that are ongoing and that meet the purposes of the program.

The Conference substitute adopts the Senate provision that retains priority areas. The Managers recognize that conservation benefits may increase from cumulative enrollment and encourages the Secretary to consider these cumulative benefits by enrolling lands in areas where land is currently enrolled. (Section 2101)

The Managers expect the Secretary to revisit the issue of how the CRP national priority area for the Prairie Pothole Region was determined and direct the Secretary to utilize the Prairie Pothole Joint Venture Implementation Plan map as the area to be considered the national CRP priority area for the Prairie Pothole Region.

The Conference substitute adopts the House provision on requiring land to be considered for re-enrollment in CRP. It is the intent of the Managers not to provide an automatic re-enrollment of these lands, but instead require that these lands go through the normal application process. (Section 2101)

(6) Balance of natural resources

The House bill requires the Secretary to do a rule making that balances CRP contracts between soil erosion, water quality and wildlife habitat. (Section 212)

The Senate amendment has no comparable provision

The Conference substitute adopts the House provision to conduct a rulemaking to achieve a balance between natural resource purposes. (Section 2101)

The Managers are concerned that a general sign-up has not taken place for several years. The Managers expect the Secretary to hold a general sign-up as soon as practicable.

(7) Hardwood trees

The Senate amendment permits the Secretary to extend the duration of CRP contracts for an additional 15 years in the case of land devoted to hardwood trees. The Secretary may provide rental payments in an amount not exceeding 50 percent of the applicable rental payment before the contract was extended. For new CRP contracts with hardwood trees, the Secretary may allow 30-year contracts at reduced rates. The bill provides a one-year extension on 15-year contracts required to be terminated by statute. (Section 212 (d))

The House bill contains no comparable provision.

The Conference substitute strikes the Senate provision regarding longer-term contracts for hardwood trees, but the substitute adopts the Senate provision regarding one-year extensions. (Section 2101)

It has come to the attention of the Managers that CRP offers that include the planting of longleaf pines may not be receiving a weight equal to those assigned to other softwoods planted on CRP contract acres. The Managers encourage the Secretary to take such measures as may be necessary to ensure that a portion of land accepted for CRP contracts devoted to pine trees include longleaf pines.

(8) Irrigated Land Rates

The Senate amendment makes irrigated land eligible for enrollment at irrigated land rates unless the Secretary determines that other compensation is appropriate. (Section 212 (f))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(9) Signing and practice incentive payments

The Senate amendment directs the Secretary to provide signing and practice incentive payments for landowners who implement a practice under the conservation buffer or CREP programs at the highest rate currently provided. (Section 212(i))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

The Managers are concerned that the payments for practices may not reflect the conservation benefits of the practices. Grass wind strips, shelterbelts, living snow fences and wellhead protection are particular activities that should receive serious consideration for signing and practice incentive payments. The Managers strongly encourage the Secretary to re-examine the procedures used to determine the incentive payment. The Managers intend that the Secretary should continue current signing and practice incentive payments throughout the duration of this legislation.

(10) Payment limits for conservation buffers and CREP

The Senate amendment creates an exception to the CRP payment limit for payments received for conservation buffers and the CREP. (Section 212(j))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(11) County acreage limitation

The Senate amendment exempts land enrolled under continuous sign-up from the limitation on the percentage of land in a county eligible for enrollment. (Section 212 (k))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(12) Report on economic and social impacts

The Senate amendment requires the Secretary to submit a report to the House and Senate Agriculture Committees about the economic and social impacts on rural communities resulting from the CRP within 270 days from the date of enactment of this legislation. (Section 212(l)).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications that require the Secretary to submit the report within 18 months and require the Secretary to

consider the economic value from recreational opportunities (including hunting and fishing). (Section 2101)

(13) Duties of Owners and Operators

The House bill permits landowners to maintain existing cover where practicable. In addition, it authorizes the Secretary to permit managed haying and grazing, wind turbines and biomass recovery as long as these activities are consistent with the conservation of soil, water quality and wildlife habitat. Finally, the House bill deletes the environmental use and alley-cropping provisions. (Section 213)

The Senate amendment permits owners of marginal pasture land not to plant trees if native prairie grass may be retained or restored or if land is restored as a wetland; directs the Secretary to permit harvesting or grazing for maintenance purposes, without a reduction in rental payment, on acres that are enrolled to establish conservation buffers and acres enrolled into the CREP in a manner that is consistent with the purposes of the CRP; allows the Secretary to permit an owner of CRP land, other than that enrolled under continuous sign-up, to install wind turbines on the land at a reduced rate; and modifies language regarding duties of participating landowners to say that an owner also agrees not to produce a crop for the duration of the CRP contract on any other highly erodible land without a cropping history that the owner owns or operates with exemptions of land used as a homestead or building site. (Section 212 (g), (h))

The Conference substitute adopts the House provision to permit landowners to continue with existing cover where practicable and consistent with wildlife reserve benefits of CRP. (Section 2101)

The Conference substitute adopts the House provision on managed haying (including for biomass) and grazing and wind turbines, with modification. USDA will permit, consistent with the conservation of soil, water quality and wildlife habitat, managed harvesting and grazing on the land at a reduced rate. Harvesting and grazing or other commercial use of the forage is permitted in response to a drought or other emergency. In addition, the Secretary shall ensure that all precautions are taken to protect against overgrazing or haying or use of land during a period that may adversely impact wildlife habitat or wildlife directly, especially ensuring that activities take place after nesting season is completed. USDA, with the State technical committees, will develop appropriate vegetation management requirements including appropriate harvesting and grazing periods. In determining the appropriate use of CRP lands for haying and grazing (including the frequency and time period), the Secretary shall require the State Technical Committees to consider the type of grass (shrubs, forbs or bushes) on the land as well as the local ecosystem. (Section 2101)

The Secretary shall permit wind turbines on CRP land, whether commercial in nature or not, in a manner that does not interfere with wildlife. In so doing, the Secretary may restrict the number and location of wind turbines that may be installed on a tract of land. The Secretary shall take special care when allowing wind turbines on small parcels of land, especially buffers, so that turbines are spaced in a manner that does not interfere with wildlife habitat, flyways or movement. (House Section 213(1)(C)) (Section 212 (h)(f))

The Conference substitute deletes the Senate provision requiring an owner to agree not to produce a crop for the duration of the CRP contract on any other highly erodible land without a cropping history that the owner owns or operates. (Section 2101)

The Conference substitute adopts the House provision to delete the environmental use and alley-cropping provisions.

(14) Reference to Conservation Reserve Payments

The House bill replaces the term rental payment with conservation reserve payment. (Section 214)

The Senate amendment has no comparable provision

The Conference substitute deletes the House provision. (Section 2101)

(15) Expansion of Pilot Program to All States

The House bill reauthorizes the project through 2011, directs the Secretary to carry out a project in each state and limits enrollment to not more than 150,000 acres in any state.

The Senate amendment reauthorizes the pilot program through 2006 in Minnesota, Montana, Nebraska, Iowa, North Dakota and South Dakota. Expands the maximum size of any wetland enrolled to 10 contiguous acres with not more than 5 acres being eligible for payment. (Section 212(e))

The Conference substitute adopts the House provision with modification. The Secretary shall carry out a nationwide program, limiting enrollment to 100,000 acres in any state and a million acres nationwide. After three years the Secretary may reallocate another 50,000 acres to interested states, based on their original allocation. The provision also expands the maximum size of any wetland enrolled to 10 contiguous acres with not more than 5 acres being eligible for payment. This change was made to facilitate enrollment of lands that meet the eligibility of the program and will achieve the goals of this program. The Secretary shall ensure that changes to regulations to the program do not have a significant impact on the original 6 states involved in the pilot program. (Section 2101)

In expanding the CRP Wetland Pilot nationwide, the Managers recognize that the playa lakes found throughout the Southern Great Plains states of Kansas, Oklahoma, Colorado, New Mexico and Texas, are also worthy of protection as they function as recharge points for the Ogallala Aquifer, help in containing flood waters and provide habitat for hundreds of bird species. Playa lakes are the most significant topographical and hydrological attribute in the Southern Great Plains. Playa lakes are often dry enough to be farmed due to the annual precipitation rates and high evaporation rates that occur in the high plains.

(16) Water Conservation

The Senate amendment requires the Secretary to provide up to 500,000 acres for CREP for water conservation measures in California, Maine, Nevada, New Hampshire, New Mexico, Oregon, and Washington. (Section 215)

The House bill contains no comparable provision.

The Conference substitute strikes the Senate provision. (Section 2101)

The Managers encourage the Secretary to allow states to have flexibility in creating CREP programs.

Subtitle C - Wetlands Reserve Program

(1) Enrollment

The House bill allows the Secretary to enroll an additional 150,000 acres per year. Any acres not enrolled may be carried over to subsequent years. (Section 221)

The Senate amendment clarifies that technical assistance is provided under the WRP and allows the Secretary to raise the acreage cap to 2.225 million acres. Of this acreage, the Secretary may enroll not more than 25,000 acres per year in the Wetlands Reserve Enhancement Program (WREP). (Section 214 (a) and (b))

The Conference substitute adopts the Senate provision with modification to increase the acreage cap up to 2.275 million acres. Also, the substitute requires the Secretary to enroll 250,000 acres per year to the maximum extent practicable. (Section 2202)

(2) Easements and cost-share allocations

The House bill strikes language requiring the Secretary to enroll acres with numeric allocations to particular methods. Directs the Secretary to enroll acres through easements, restoration cost share agreements or both. (Section 221)

The Senate amendment has no comparable provision.

The Conference substitute strikes the House provision. It modifies current law to clarify that land can be enrolled with 30-year or permanent easements, restoration cost share agreements or both. The Conference substitute also continues to require the Secretary to enroll lands in proportion to landowner interest. (Section 1237(b)(2)(B)). (Section 2203)

(3) Reauthorization

The House bill extends the WRP through 2011. (Section 221)

The Senate amendment extends the WRP through 2006. (Section 214 (c))

The Conference substitute extends the WRP through 2007. (Section 2201)

(4) Wetlands Reserve Enhancement Program

The Senate amendment creates a WREP under which the Secretary may enter into cooperative with state or local governments, and with private organizations, to conduct wetland restoration activities that address critical environmental issues. (Section 214 (d))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2202)

(5) Technical Assistance, Monitoring and Maintenance

The Senate amendment clarifies that technical assistance includes monitoring and maintenance of the terms and conditions of the easement and the plan. (Section 214 (e))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2203)

(6) Easements and Agreements

The House bill consolidates the language defining prohibited activities to prohibit the alteration of wildlife habitat and other natural features of such land, unless

specifically permitted by the plan. Consolidates the language describing the length of a WRP easement to say that easements shall be consistent with applicable state law, and strikes redundant language stating that the Secretary can enroll land into the WRP using restoration cost-share agreements. (Section 222)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provisions on prohibited activities and length of easements. In addition, it strikes the redundant provision in current law regarding restoration cost-share agreements. (Section 2203)

(7) Duties of the Secretary

The House bill deletes a provision that requires the Secretary to give priority to obtaining permanent conservation easements and easements designed to protect and enhance habitat for migratory birds and other wildlife. (Section 223)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2203)

(8) Changes in Ownership: Agreement Modification; Termination

The House bill amends the language regarding changes in ownership to provide that no easement can be created on land that has changed ownership in the past 12 months unless: (1) the new ownership was acquired by will or succession as a result of the death of the previous owner, (2) the ownership change occurred due to foreclosure on the land and the owner of the land exercises a right of redemption from the mortgage holder in accordance with state law, or (3) the Secretary determines that the land was acquired under circumstances which give adequate assurances that such land was not acquired for the purposes of placing it in the WRP. (Section 223)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a modification to replace the section on changes in ownership due to a foreclosure with new language. (Section 1237E(a)(2)) (Section 2204)

Subtitle D - Environmental Quality Incentives Program

(1) Purposes

The House bill strikes language describing the purpose of the EQIP as combining four previous conservation programs into a single program; strikes language regarding carrying out a program to maximize the environmental benefits per dollar expended; and rewords language about assisting farmers and ranchers who face the most serious environmental threats to providing assistance to farmers and ranchers to address environmental needs; adds air to the list of resources to be addressed; and replaces the terms farmers and ranchers with producers. (Section 231)

The Senate amendment rewrites the purposes of the EQIP to promote agricultural production and environmental quality as compatible national goals and to: (1) assist producers in complying with federal, state and local environmental laws, (2) avoid the need for regulatory programs, (3) provide assistance to producers for installing and maintaining conservation systems, (4) assist producers in making certain conservation changes, (5) facilitate partnerships between producers, government and nongovernmental

organizations, and (6) consolidating and streamlining conservation planning; retains language regarding a program goal to maximize the environmental benefits per dollar expended; and includes air in the purposes of the EQIP. (Section 213(a))

The Conference substitute adopts the Senate provision on the purposes of the program with a modification to subsection (1) stating that the purposes of EQIP are to promote agricultural production and environmental quality as compatible goals and to optimize environmental benefits by assisting producers in complying with local, state and national regulatory requirements concerning soil, water, and air quality, wildlife habitat, and surface and ground water conservation. (Section 1240) (Section 2301)

The Conference substitute adopts the Senate provision with a modification changing the phrase conservation systems to conservation practices. (Section 1240(3)) (Section 2301)

The Managers expect the Secretary to continue carrying out EQIP with the goal of optimizing environmental benefits. (Section 213(a))

(2) Definitions

The House bill adds the term non-industrial private forestland to the definition of eligible land. Further, the House bill changes the definition of eligible land by striking reference to land that poses a serious threat and inserting that provides increased environmental benefits to air, soil, water or related resources, and adds the term non-industrial private forestland to the definition of producer. (Section 2302)

The Senate amendment defines the term eligible land to include private non-industrial private forestland, defines producer with the same meaning given to the term in the Agricultural Market Transition Act.

The definition section includes definitions for: beginning farmer and rancher, comprehensive nutrient management, eligible land, innovative technology, land management practice, livestock, maximize environmental benefits per dollar expended, practice, producer and structural practice. (Section 213(a))

The Conference substitute adopts the Senate definition of beginning farmer, land management practice, livestock, structural practice, and practice. (Section 2301)

The Conference substitute adopts the Senate definition of eligible land with an amendment that adds air to the list of protected resources but excludes specific threatening conditions. (Section 2301)

The Conference substitute deletes the Senate provisions defining innovative technology and comprehensive nutrient management plan. (Section 2301)

The Conference substitute deletes the Senate provisions defining managed grazing, innovative technology, producer, and program. The substitute also deletes the Senate provision defining the term “maximize environmental benefits per dollar expended,” thus striking the provision throughout the program. (Section 1240(A)(8)) (Section 2301)

(3) Establishment and Administration

The House bill re-authorizes the EQIP through 2011; amends the permissible term of EQIP contracts to allow for agreements ranging from one to ten years; amends language governing the selection process for structural practice applications. Strikes references to priorities established in the EQIP and factors to maximize the environmental benefits per dollar expended replaces with language directing the

Secretary to base the selection process on achieving the purposes established under this subtitle; removes prohibition on large confined livestock operations getting cost-share assistance to build waste management facilities; and replaces the language regarding incentive payments with new language directing the Secretary to make incentive payments to encourage producers to perform multiple land management practices and to promote the enhancement of soil, water, wildlife habitat, air and related resources. Permits the Secretary to give great weight to practices that include residue, nutrient, pest, invasive species and air quality management. (Section 233)

The Senate amendment reauthorizes the EQIP through 2006; directs the Secretary to provide conservation education; amends the permissible term of EQIP contracts to allow for agreements ranging from three to ten years; prohibits a producer from entering into more than one contract for structural practices relating to livestock nutrient management from fiscal years 2002 through 2006; directs the Secretary to develop an application and evaluation process for awarding assistance that maximizes the environmental benefits per dollar expended; prohibits the Secretary from assigning a higher priority to an application based solely on the reason that it presents the least cost to the program; cost-share payments shall not exceed 75 percent of the cost of the practice; cost-share payments to limited resource and beginning farmers shall not exceed 90%; removes prohibition on large confined livestock operations getting cost-share assistance to build waste management facilities; directs the Secretary to make incentive payments in an amount and rate determined to be necessary to encourage a producer to perform 1 or more practices; directs the Secretary to give incentive payments to producers to be used to obtain technical assistance associated with the development of any component of a comprehensive nutrient management plan from certified providers. (Section 213(a)) (Section 2301)

The Conference substitute adopts the Senate provision with modification providing incentive payments for producers who develop a comprehensive nutrient management plan. (Section 1240B(a)(2)) (Section 2301)

The Conference substitute deletes the Senate provision on education. (Section 1240B(a)(3)) (Section 2301)

The Conference substitute adopts the Senate provision with modification on the application and term of contracts. At a minimum, the contract should have a term of one year beyond the date of completion of the project. (Section 1240B(b)) (Section 2301)

The Conference substitute adopts the Senate provision on incentive payments with modification, by including a special rule for priority under incentive payments. (House Section 233(e)) (Section 2301)

The Conference substitute adopts the House provision by striking the provision on the application and evaluation process for awarding assistance that maximizes the environmental benefits per dollar expended. (House Section 233(c), Senate 213(a) (1240B(c))) (Section 2301)

The Conference substitute adopts the Senate provision to remove the bidding down procedure that assigns a higher priority to an application because it costs less. (Section 1240B(c)(4)) (Section 2301)

The Conference substitute adopts the Senate provision on increased cost-share payments for beginning and limited resource farmers. (Section 1240B(d)) (Section 2301)

The Conference substitute adopts the House provision on technical assistance in EQIP. All technical assistance will be addressed in Subtitle E in the Administration and Technical Assistance section. (Section 1240B(f)) (Section 2301)

(4) Evaluation of Offers and Payments

The House bill strikes existing language. Replaces with language directing the Secretary to give a higher priority to EQIP offers that: (1) aid producers in complying with federal and state environmental laws, (2) promote the use of animal manure or other similar soil amendments, and (3) encourage the utilization of sustainable grazing systems. (Section 234)

The Senate amendment directs the Secretary to give priority to applications that: (1) maximize the environmental benefits per dollar expended, (2) national conservation priority areas, (3) are provided in conservation priority areas, (4) are provided in special projects, or (5) include an innovative technology in connection with a structural practice or land management practice. (Section 213(a)) (Section 2301)

The Conference substitute adopts the Senate provision with modification on giving higher priority to applications that use cost-effective conservation practices and address national conservation priorities. (Section 1240C(a)(2)) (Section 2301)

The Conference substitute deletes the Senate provision on special projects and innovative technology. (Section 2301)

INHIBITOR TECHNOLOGY - To make efficient use of urea and ammonium fertilizers, reduce nitrate run-off and leaching, and the emission of ammonia and greenhouse gases, the incorporation of urease inhibitors and nitrification inhibitors into urea and ammonium containing fertilizers should be recommended as a best management practice.

NUTRIENT MANAGEMENT - Since enactment of the Food, Agriculture, Conservation and Trade Act of 1990, Congress has been concerned about the impact federal, state and local environmental laws eventually would have on U.S. agricultural producers and their ability to maintain viable farming and ranching operations.

In the past few years, those laws, regulations and court orders have been focused on agriculture. Those provisions reflect a disconnect between regulators and agricultural producers as well as rural communities. In this posture, U.S. farmers and ranchers feel as though they are pressed against an inflexible wall of legal and environmental requirements. These requirements are issued from Washington in a top-down management style that attempts to fit all areas of the country into a national program. Congress has responded with financial and technical assistance implemented through the USDA.

In 1996, Congress created the EQIP to help farmers and ranchers meet environmental laws. The Managers believe EQIP is a valuable tool to help producers avoid the need for future regulation, and the Secretary shall manage the program to maximize this purpose. As legislation was developed to improve EQIP and provide additional resources to it, Congress was specifically concerned about how the U.S. livestock industry would meet new Clean Water Act requirements on animal feeding operations. In that regard, the Managers agree that nutrient management, especially animal waste management, is both a problem to address and a resource to be used. To that extent, the Managers encourage the Secretary to evaluate EQIP contract offers on

their use of animal manures and other similar soil amendments that improve soil health, tilth, and water-holding capacity.

MANAGED GRAZING - The Managers further encourage the use of grazing systems, such as year-round, rotational or managed grazing systems, that enhance productive livestock operations.

(5) Duties of Producers

The Senate amendment requires producers to implement a conservation plan; not conduct any practices that defeat the purposes of the program; take actions upon termination of a contract and supply information to determine compliance, and submit a list of all confined livestock feeding operations wholly or partially-owned or operated by the applicant. (Section 213(a))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a modification removing the requirement to submit a list of all confined livestock feeding operations wholly or partially-owned or operated by the applicant. (Section 2301)

(6) Environmental Quality Incentives Program Plan

The House bill strikes language regarding practices and principles that the Secretary deems necessary. Replaces with language requiring the producer to submit a plan that provides or will continue to provide increased environmental benefits to air, soil, water or related resources. (Section 235)

The Senate amendment requires a producer to submit an EQIP plan that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary. Confined livestock feeding operations with an animal waste system must develop and implement comprehensive nutrient management plans if applicable. (Section 1240E(a))

The Senate amendment requires the Secretary to eliminate duplication, to the maximum extent practicable, of planning activities under EQIP and other conservation programs. (Section 1240E(b))

The Conference substitute adopts the Senate provision with modification. All livestock producers that receive funding for animal waste manure systems must have a comprehensive nutrient management plan. The Managers believe that there will be few cases in which a comprehensive nutrient management plan will not be required. The Managers recognize the importance of comprehensive nutrient management plans for the proper use and storage of animal waste and for that reason require these plans. (Section 2301)

The Conference substitute also adopts the Senate provision on eliminating duplication. (Section 1240E(a), (b)) (Section 2301)

(7) Duties of the Secretary

The House bill requires the Secretary to provide technical assistance and cost-share payments for developing structural practices or land management practices. (Section 236)

The Senate amendment requires the Secretary to provide cost-share assistance and incentive payments for developing and implementing one or more practices. (Section 213 (a) (1240F))

The Conference substitute adopts the Senate provision. (Section 2301)

The Managers are aware of the unique conservation and production practices utilized by specialty crop growers throughout the United States. The Managers expect the USDA to ensure that adequate resources are made available for specialty crop conservation practices under the EQIP. The Managers also expect that, in carrying out the financial assistance provisions of the various conservation programs, the unique production practices involved in fruit and vegetable production are taken into account when drafting and implementing regulations to carry out those programs. In particular, the Managers would direct the Secretary when enrolling a producer who is already undertaking activities related to integrated pest management, make those ongoing activities eligible for financial assistance after the date of enrollment.

(8) Limitation on Payments

The House bill raises the payment limits to \$50,000 in any fiscal year and \$200,000 for any multi-fiscal year contract, strikes reference to the phrase “maximization of environmental benefits per dollar expended” in discussion of exceptions to the annual limit, and strikes prohibition on payment in the same fiscal year in which the contract is entered into. (Section 237)

The Senate amendment raises the payment limitations to \$30,000 in any fiscal year and \$150,000 for any multi-year contract of four or more years and permits payment during the first year of the contract. The Secretary may waive the annual limit. (Section 213 (a))

The Conference substitute adopts the House provision with modification. A producer may receive, directly or indirectly, up to \$450,000 in any combination of contracts over the life of the farm bill. The Managers recognize that the Secretary may need to adjust cost-share percentages provided under a contract to maximize participation and optimize environmental benefits. (Section 2301)

(9) Ground and Surface Water Conservation

The House bill replaces the entire section with a new program within the EQIP providing cost-share, low-interest loans and incentive payments to encourage ground and surface water conservation, and funds at \$30 million in fiscal year 2002, \$45 million in fiscal year 2003 and \$60 million for fiscal years 2004 through 2011. (Section 238)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with modification. Water conservation activities that are eligible for incentive payments and cost-share include the lining of ditches and installation of piping, tail water return systems, low-energy precision irrigation systems, low-flow irrigation systems, off-stream and groundwater storage, and conversion from gravity or flood irrigation to higher efficiency systems. In addition, the Secretary may provide cost-share and incentive payments under this section only if the assistance will facilitate a conservation measure that results in a net savings in ground or surface water resources on the agricultural operations of the producers. (Section 2301)

Of the \$600 million in funding made available for this program, the Secretary should make available \$50 million per year to assist producers in the Klamath Basin.

In providing funding for water conservation incentives, the Managers recognize that the High Plains Aquifer underlying the states of Texas, New Mexico, Oklahoma, Kansas, Colorado, South Dakota, Wyoming, and Nebraska is a critical source of groundwater for agricultural and municipal uses. The Managers encourage the Secretary to give producers in the High Plains Aquifer the highest priority for funding under this program. The communities on the High Plains depend on the Aquifer as their major water supply. Due to the scope and significance of this geological feature, there is a need for regional efforts to address groundwater management in the High Plains Aquifer. The Managers urge the Secretary to work with state water or conservation agencies and agricultural producers in the High Plains region to coordinate federal assistance with state programs and to encourage cooperation between states in implementing conservation incentives and water reduction practices.

(10) Desert Terminal Lakes

The Conference substitute directs the Secretary to transfer \$200 million to the Bureau of Reclamation to be used to provide water to at-risk natural desert terminal lakes. These funds cannot be used for the purchase or lease of water rights. (Section 2507)

(11) Conservation Grants

The Senate amendment allows the Secretary to use up to \$100 million in each of fiscal years 2003 through 2006 for competitive grants that are intended to stimulate innovative approaches to leveraging federal investment in environmental enhancement and protection through the use of the EQIP. Funds not obligated by April 1st of the fiscal year shall be used to carry out other activities under EQIP. (Section 213 (a) (Section 1240H)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision by authorizing the Secretary to provide innovation grants. The Managers encourage the Secretary to allow funding for these grants, including for practices that foster markets for nutrient trading and for the continued implementation and acceleration of programs for demonstrating innovative nutrient management technology systems for animal feeding operations. (Section 2301)

This section has been included as a discretionary use of EQIP funds to foster the adoption of innovative, cost effective approaches to addressing a broad base of conservation needs.

This Managers intend that these grants be used to provide for the use of incentives to farmers - as opposed to regulations - to address some of the nation's most difficult conservation needs. By establishing market-based incentives, an efficient mechanism is created to improve water quality and create environmentally beneficial income alternatives for farmers.

By leveraging Federal funds through competitive grants, the Managers expect other sectors of the economy, such as States, and the conservation and philanthropic communities will be engaged in helping find and deliver the best solutions to environmental needs.

(12) Southern High Plains Aquifer Groundwater Conservation

The Senate amendment creates a southern High Plains Aquifer groundwater conservation program. Directs the Secretary to provide cost-share payments, incentive payments and groundwater education assistance to producers that draw water from the southern High Plains Aquifer. Funds at \$15 million for fiscal year 2003, \$25 million for fiscal years 2004 and 2005, \$35 million for fiscal year 2006 and \$0 for fiscal year 2007. Funds not expended by April 1st of each fiscal year shall be made available for other states under EQIP. (Section 213(a) section 1240I)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, but recognizes the importance of providing producers access to funds to aid their efforts in water conservation. (Section 2301)

(13) Pilot Programs

The Senate amendment creates a drinking water suppliers pilot program in selected watersheds to allow the Secretary to work cooperatively with local water utilities to improve water quality. The Secretary shall also carry out a nutrient reduction pilot program in the Chesapeake Bay watershed for fiscal years 2003 through 2006 to reduce nutrient loads in the Chesapeake Bay. Funds at \$10 million for fiscal year 2003, \$15 million for fiscal year 2004, \$20 million for fiscal year 2005, \$25 million for fiscal year 2006 and \$0 for fiscal year 2007. Funds not obligated by April 1st shall be made available under EQIP. (Section 213(a) (Section 1240J(a), (b))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision on the drinking water suppliers pilot program. In so doing, the Managers believe that coordination with third parties, including drinking water suppliers should be encouraged. Any projects which involve drinking water suppliers and EQIP participants should encouraged. (Section 1240J(a)) (Section 2301)

The Conference substitute deletes the Senate provision on the nutrient reduction pilot program.

(14) Section 11

The Senate amendment amends Section 11 of the Commodity Credit Corporation (CCC) Charter Act to exclude transfers and allotments for conservation technical assistance from the current limitation. (Section 213(c))

The House bill contains no comparable provision.

The Conference deletes the Senate provision. The Managers understand the critical nature of providing adequate funding for technical assistance. For that reason, technical assistance should come from each individual program. (Section 2301)

(15) Water Benefits Program

The Senate amendment states that the Secretary shall establish a Water Benefits Program, run through the Natural Resources Conservation Service (NRCS), in Nevada, California, New Mexico, Oregon, Washington, Maine and New Hampshire for cost-share payments for practices, including irrigation efficiency infrastructures and conversions from a water-intensive crop to a crop that requires less water, aimed at conservation of

water to benefit fish and wildlife, with special emphasis on threatened and endangered species. (Section 1240R)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

Subtitle E - Funding And Administration

(1) Reauthorization

The House bill reauthorizes these programs through 2011. (Section 241)

The Senate amendment has no comparable provision.

The Conference substitute reauthorizes the CCEP programs through 2007. (Section 2701)

(2) Funding

The House bill funds EQIP at \$1.025 billion in fiscal years 2002 and 2003, \$1.2 billion in fiscal years 2004, 2005 and 2006, \$1.4 billion in fiscal years 2007, 2008 and 2009, and \$1.5 billion fiscal years 2010 and 2011. (Section 242)

The Senate amendment funds EQIP at \$500 million in fiscal year 2002, \$1.3 billion in fiscal year 2003, \$1.45 billion in fiscal years 2004 and 2005, and \$1.5 billion in fiscal year 2006 and \$850 million in fiscal year 2007. (Section 213(b))

The Conference substitute funds EQIP at \$400 million in fiscal year 2002, \$700 million in fiscal year 2003, \$1 billion in fiscal year 2004, \$1.2 in fiscal years 2005 and 2006, and \$1.3 billion in fiscal year 2007. (Section 2701)

(3) Allocation for Livestock Production

The House bill extends the allocation of 50 percent of the EQIP funding to livestock through 2011. (Section 243)

The Senate amendment removes the allocation formula.

The Conference substitute adopts the House provision with modification to allow 60 percent for practices related livestock and 40 percent for practices related to crops through fiscal year 2007. (Section 2701)

(4) Administration and Technical Assistance

The House bill broadens the exception to the acreage limitation by striking the requirement that operators in the county be having difficulties complying with a conservation plan, and requires the Secretary to reevaluate the provision of and amount of technical assistance made available under CRP, WRP and EQIP. (Section 244)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with modification. The Managers provide that funds for technical assistance shall come directly from the mandatory money provided for conservation programs under Subtitle D. (Section 2701)

In order to ensure implementation, the Managers believe that technical assistance must be an integral part of all conservation programs authorized for mandatory funding. Accordingly, the Managers have provided for the payment of technical assistance from program accounts. The Managers expect technical assistance for all conservation programs to follow the model currently used for the EQIP whereby the Secretary determines, on an annual basis, the amount of funding for technical assistance.

Furthermore, the Managers intend that the funding will cover costs associated with technical assistance, such as administrative and overhead costs.

(5) Third-Party Providers

The House bill requires the Secretary to develop a system for approving third-party providers to give technical assistance within six months of the enactment of this subsection. (Section 244)

The Senate amendment requires the Secretary to establish provisions for increased technical assistance by nonfederal providers, including certification of providers (without undermining private certification organizations). The Secretary may also enter cooperative agreements with state, local and nongovernmental groups to provide technical assistance. The Secretary shall require certification (including payment of a fee) for providers of technical assistance and offer waivers for both certification and fee payment. The Secretary shall establish an advisory committee with federal, state, local and private representatives charged with advising the Secretary on third-party technical assistance. (Section 204(f))

The Conference substitute adopts the House provision with modification. The Managers strongly encourage the Secretary to design a certification program for approving individuals and entities to provide technical assistance that includes individuals currently providing technical assistance through agreements or contracts, including cooperative agreements and memorandums of understanding. Persons that have provided technical assistance through a previous agreement such as a memorandum of understanding contract or cooperative agreement with the Secretary may continue to provide technical assistance. Their certification should be evaluated according to the criteria established by the regulations. In addition, the Secretary may request the services of, and enter into a cooperative agreement or a contract with, non-federal entities, a state water quality agency, a state fish and wildlife agency, a state forestry agency, a state conservation agency or conservation district, a land grant institution or other institutions of higher learning, or any other governmental or non-governmental organization. (Section 2701)

Today there is considerable interest in both the private and public sectors to provide technical assistance for USDA conservation programs. In the past, USDA has been the primary provider of technical assistance to conservation program participants. However, it will be difficult to meet the increased demand for technical services as financial assistance increases over the life of the farm bill. The potential volume of many new, as well as returning, USDA conservation program participants may overwhelm the assistance available through existing resources. To meet this demand, assistance from third-party providers will be needed.

It is the intent of the Managers that the third-party technical assistance certification program will result in a pool of individuals and organizations and agencies that are qualified to provide technical assistance to producers related to the development and implementation of conservation practices. The Managers intend for the Secretary to seek to optimize the delivery of technical assistance through public and private sources, and in conjunction with USDA staff, to effectively, efficiently, and expeditiously deliver conservation programs.

The Managers intend that third-party vendors accepting federal technical assistance payments will follow all the applicable Federal laws. Furthermore, the

Managers intend for third parties to accept the appropriate liability for the adequacy of their plans, practice designs, and implementation procedures, and to comply with all appropriate privacy and confidentiality requirements.

It is the Managers intent in this section that third-party private providers may certify that the technical assistance meets USDA standards, but it is not intended as a certification for approval of program payment.

Subtitle F - Other Programs

(1) Private Grazing Land and Conservation Assistance

The House bill adds sustainable grazing systems to the list of activities eligible for assistance. (Section 251)

The Senate amendment reauthorizes program to 2006. (Section 217 (Section 1240P))

The Conference substitute adopts the Senate provision, with a modification to remove the findings section. The substitute reauthorizes the program through 2007. (Section 2501)

(2) Wildlife Habitat Incentives Program

The Senate amendment allows the Secretary to provide cost-share payments and technical assistance to landowners to develop and enhance wildlife habitat. Funds the Wildlife Habitat Incentive Program (WHIP) at \$50 million in fiscal year 2002, \$225 million for fiscal year 2003, \$275 million for fiscal year 2004, \$325 million for fiscal year 2005, \$355 million for fiscal year 2006, and \$50 million for fiscal year 2007. The amendment reserves at least 15 percent of funds for projects to benefit endangered, threatened and sensitive species, allows the Secretary to establish a pilot program using up to 15 percent of the funds to enroll lands for at least 15 years for essential habitat, and allows the Secretary to provide grants to individuals or nonprofit groups that lease public lands for enhancing wildlife habitat, if the work on the public land if it directly benefits private land. (Section 217)

The House bill funds WHIP at \$25 million in fiscal year 2002, \$30 million in fiscal years 2003 and 2004, \$35 million in fiscal years 2005 and 2006, \$40 million in fiscal year 2007, \$45 million in fiscal years 2008 and 2009, and \$50 million in fiscal years 2010 and 2011. (Section 252)

The Conference substitute adopts the House amendment with modification. Cost-share payments will be made to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish and other types of wildlife habitat. Up to 15 percent of annual funds under this section may be for increased cost-share payments to producers to protect and restore essential plant and animal habitat using agreements with a duration of at least 15 years. The Managers strongly encourage the Secretary to continue using at least 15 percent of funds for threatened and endangered species. (Section 2502)

The Conference substitute funds the program as follows: \$15 million for fiscal year 2002; \$30 million for fiscal year 2003; \$60 million for fiscal year 2004; \$85 million for each of fiscal years 2005 through 2007. (Section 2502)

Where private lands adjoin public lands that are leased by the same producer, the Secretary may provide WHIP assistance if the conservation purpose directly benefits the adjacent private lands.

(3) Farmland Protection Program

(a) Acreage and eligibility

The House bill strikes the acreage limitation, and makes agricultural land that contains historic or archaeological resources eligible for enrollment. (Section 253)

The Senate amendment strikes the Farmland Protection Program (FPP) from the 1996 FAIR Act and moves to the 1985 Farm Bill, strikes the acreage limitation, expands the definition of eligible land, and makes agricultural land that contains historic or archaeological resources eligible for enrollment. (Section 218)

The Conference substitute adopts the Senate provision. (Section 1238H(1)) (Section 2503)

The Conference substitute adopts the Senate provision with clarification that forested land can only be enrolled if it is an incidental part of the agricultural operation. (Section 1238H(2)) (Section 2503)

FPP has been a successful program and the Managers' intent is that it continue to protect the nation's best working agricultural lands. Although the name of the FPP shall remain the same for the purpose of continuity, the purpose of the program has been expanded to also include grazing, pasture, range, and forestland that is a part of an agricultural operation.

In order to ensure that all states can participate in the program, the Managers have added non-profit organizations as eligible entities. In addition, the Managers recognize the need to protect important historic and archaeological resources located on farms and ranches.

(b) Funding

The House bill increases funding to \$50 million per year in FY 2002 through 2011. (Section 253)

The Senate amendment increases FPP funding to \$150 million in fiscal year 2002, \$250 million in fiscal year 2003; \$400 million in fiscal year 2004, \$450 million for fiscal year 2005, \$500 million in fiscal year 2006, and \$100 million for fiscal year 2007. (Section 218)

The Conference substitute funds the program as follows: \$50 million for fiscal year 2002, \$100 million for fiscal year 2003, \$125 million for fiscal years 2004 and 2005, \$100 million for fiscal year 2006, and \$97 million for fiscal year 2007. (Section 2503)

(c) Purchase of conservation easements

The House bill clarifies entities that are eligible to receive funding for the purchase of conservation easements. (Section 253)

The Senate amendment clarifies entities that are eligible to receive funding for the purchase of conservation easements. (Section 218)

The Conference substitute adopts the Senate provision. (Section 2503)

The Managers expect the Secretary to utilize funds out of the FPP to protect from development the farm operated by American Airlines Captain John Ogonowski, the pilot of AA Flight 11 that was hijacked on September 11, 2001. The Managers direct the Secretary to work with the Dracut Land Trust, Incorporated, in Dracut, Massachusetts, to preserve this prime farmland as a working memorial to Captain Ogonowski. The

Managers understand that the Dracut Land Trust would intend to keep a portion of the farm available for the New Entry Sustainable Farming Project that assists immigrant farmers from Cambodia, a project that Captain Ogonowski was deeply involved with from its inception.

(d) Market viability grants

The Senate amendment allows the Secretary to use up to \$10 million annually to provide matching market viability grants. The grantee must provide matching funds, limits federal cost-share to 50 percent of the appraised fair market value of the easement. (Section 218)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification allowing for authorization of funding for market viability grants. (Section 218(b)) (Section 2503)

(4) Resource Conservation and Development Program

The House bill provides permanent authorization for the Resource Conservation and Development (RC&D) program and makes technical and conforming changes necessary to the program. (Section 254)

The Senate amendment provides permanent authorization for the RC&D program and makes technical and conforming changes necessary to the program. (Section 216)

The Conference substitute adopts the Senate provision with the modification that Senate amendment section 1532(e) will be struck, thereby disallowing an RC&D Council from using another person or entity to assist in developing and implementing an area plan. (Section 2504)

(5) Grassland Reserve Program

(a) Establishment

The House amendment establishes a Grasslands Reserve Program (GRP) under which the Secretary may enroll up to 2 million acres (1 million acres of restored grassland, 1 million acres of virgin (never cultivated) grassland) using ten, fifteen and twenty-year contracts as well as thirty-year and permanent easements.

The Senate amendment establishes a GRP under which the Secretary may enroll up to 2 million acres of natural grassland or land that was historically natural grassland using thirty-year rental agreements, easements or permanent easements.

The Conference substitute adopts the House provision with modification that the total number of acres shall not exceed 2 million acres of restored, improved, or natural grassland, rangeland and pastureland, including prairie. The Secretary shall enroll not less than 40 contiguous acres of land using ten-year, fifteen-year, twenty-year and thirty-year contracts as well as thirty-year and permanent easements. The Secretary may provide a waiver for smaller tracts of land in the case of exceptional acreage that meets the purposes of the program. (Section 2401)

The Managers expect the Secretary to use 40 percent of the funds to conduct the sign-up and enrollment for the ten, fifteen, and twenty-year GRP contracts in a manner similar to the method currently used by the Secretary for the CRP. This should allow for enrollment competition that will limit the cost per acre but encourage the producer to maintain or initiate sound grazing practices commonly used in the local area. For long-term agreements and easements, the Managers intend that the sign-up be conducted in a manner similar to the WRP. The standards for grazing should be no more stringent than

those used in the CRP, the CSP or the FPP. All grasslands should receive equitable treatment in the sign-up and enrollment process.

(b) Funding

The House amendment provides \$254 million in funding. Not more than one-third of this money may be used to acquire permanent easements.

The Senate amendment directs that funding shall be provided through the CCC.

The Conference substitute adopts the House provision with modification that 60 percent of this money may be used to enter into thirty-year agreements and acquire thirty-year and permanent easements. (Section 2401)

(c) Eligible practices

The House bill permits common grazing practices where consistent with maintaining the viability of natural grass and shrub species indigenous to that locality, allows for haying, mowing or haying for seed production except during the nesting season for birds in the local area which are in significant decline or are conserved pursuant to state or federal law as determined by NRCS. The bill also permits the construction of firebreaks and fences. The House bill prohibits the production of any agricultural commodity (other than hay) and any other activity that would disturb the surface of the land covered by the agreement.

The Senate amendment permits common grazing practices where consistent with maintaining the viability of natural grass, shrub, forb and wildlife species indigenous to that locality and allows for haying, mowing or haying for seed production except during the nesting or brood-rearing season for birds in the local area which are in significant as determined by NRCS. It permits the construction of firebreaks and fences and gives emphasis to support for native grassland and land containing shrubs or forb, grazing operations, and plant and animal bio-diversity under the threat of conversion. The Senate amendment prohibits the production of any agricultural commodity (other than hay) and any other activity that would disturb the surface of the land covered by the agreement. The Secretary together with the State technical committee shall establish criteria for ranking applications, but shall emphasize support for grazing operations, biodiversity and lands under greatest threat of conversion.

The Conference substitute adopts the House provision with modification. (Section 2401)

The Managers intend that the Secretary shall permit common grazing practices. In permitting such activities, the Managers intend that the Secretary will allow for maintenance and necessary cultural practices common to grazing systems utilized throughout the various regions of the country. These management practices may include such things as: controlled burning, aeration, over-seeding, reseeding, planting of new native species or any other practice as determined by the Secretary to be necessary for grazing management. Beyond maintenance, the Managers intend that the Secretary will permit haying, mowing, or harvesting for seed production, subject to appropriate restrictions for completion of the nesting season for birds in the local area which are in significant decline or are conserved pursuant to state or federal law, as determined by the NRCS state conservationist.

(d) Payments

The House amendment directs that contract payments shall be made annually in an amount that is not more than 75 percent of the grazing value of the land. Easement payments may be made as a single payment or a series of annual payments. In the case

of a permanent easement, the payment shall be equal to the fair market value of the land less the grazing value of the land encumbered by the easement. With respect to a thirty-year easement, the payment shall be equal to 30 percent of the fair market value of the land less the grazing value of the land for the period that the land is encumbered by the easement. In addition to incentive payments, the Secretary is authorized to provide cost-share assistance for restoration projects. In the case of virgin grassland, these payments may not exceed 90 percent of the restoration costs. With respect to restored grasslands, these payments may not exceed 75 percent of such costs. (Section 255)

The Senate amendment establishes payments for permanent easements that shall equal the fair market value of the land less the grazing value and for 30-year easements, 30% of the fair market value of the land less the grazing value. 30-year rental agreements shall be equal, to the maximum extent possible, to the payment for 30-year easements. The Secretary shall provide up to 75% of cost-share for restoration of grassland. The Secretary may permit an eligible private organization or state agency to hold and enforce an easement. (Section 219)

The Conference substitute adopts the House provision with modification to use the Senate formula for thirty-year agreements as well as thirty-year and permanent easements. (Section 2401)

(6) Farmland Stewardship Program

The House bill establishes a new program to use federal conservation programs in conjunction and cooperation with state and local conservation efforts, and enables the Secretary to implement or combine together the features of the WRP, WHIP, FPP, the new Forest Land Enhancement Program (FLEP) or other conservation programs where feasible. (Section 256)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2502)

(7) Small Watershed Rehabilitation Program

The House bill authorizes appropriations to fund the program at \$15 million annually for fiscal year 2002 and each succeeding fiscal year. (Section 257)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision, providing \$275 million over the length of this legislation and reauthorizes the program. (Section 2505)

(8) Provision of Assistance for Repaupo Creek Tide Gate and Dike Restoration Project, New Jersey

The House bill directs the Secretary, acting through NRCS, to provide assistance for planning and implementation of the Repaupo Creek Tide Gate and Dike Restoration Project. (Section 258)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2501)

(9) Conservation Corridor Demonstration Program

The Conference substitute adopts a new provision not contained in either bill that requires the Secretary of Agriculture to establish a conservation corridor demonstration program on the Delmarva Peninsula in the states of Delaware, Maryland and Virginia

located on the east side of the Chesapeake Bay. A state, local government or combination of states must submit a plan and commit resources in order to participate in the program that is designed to demonstrate local conservation and economic cooperation using existing agriculture and forestry conservation programs of the Department of Agriculture.

The Managers intend that this new program may use only conservation program funds for which they are authorized and annually appropriated by the Congress.

Subtitle G - Miscellaneous

(1) Grassroots Source Water Protection Program

The Senate amendment authorizes \$5 million annually from fiscal years 2002 to 2006 for a national grassroots water protection program to more effectively use technical capabilities of each state rural water association that operates a well-head or groundwater protection program. (Section 217 (Section 1240Q))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Underserved States

The Conference substitute adopts a provision adding \$10 million per year for USDA's Agriculture Management Assistance Program for fiscal years 2003 through 2007. The program assists states found by USDA to be under-served in the Agricultural Risk Protection Act of 2000.

(3) Organic Agriculture Research Trust Fund

The Senate amendment establishes an Organic Agriculture Research Trust Fund.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with funding of \$3 million a year through the life of the bill. (Section 231)

(4) Establishment of National Organic Research Endowment Institute

The Senate amendment states that the Secretary shall establish a National Organic Research Endowment Institute.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(5) Allocation of Conservation Funds by State

The Senate amendment states that the Secretary shall, to the maximum extent possible, provide each state with a minimum of \$12 million annually from conservation programs. Each state shall be provided \$5 million from EQIP and a minimum of \$7 million from other conservation programs administered by the Secretary. Any funds not obligated under this provision by April 1 of the fiscal year shall be available to carry out activities under Subtitle D. (Section 241)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. Before April 1 of each fiscal year, priority for funding for conservation programs, excluding CRP, CSP and WRP, shall be given to approved applications in any state that has not

received cumulative conservation funding for the fiscal year of at least \$12 million. The Managers understand that only participants who qualify under the individual program from which funds will be provided shall be eligible to receive this priority under this program.

(6) Watershed Risk Reduction

The Senate amendment states that the Secretary, acting through NRCS, shall cooperate with landowners and land users to conduct projects (including the purchase of flood plain easements) to safeguard lives and property from floods, drought, and the products of erosion on any watershed. Priority shall be given to any project or activity that is carried out on a flood plain adjacent to a major river and there is authorized to be appropriate \$15 million for each of fiscal years 2002 through 2006. (Section 217 (Section 1240N))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(7) Great Lakes Basin Program for Soil Erosion and Sediment Control

The Senate amendment authorizes the Secretary of Agriculture, in consultation with the Great Lakes Commission, and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army to carry out a program in the Great Lakes basin for soil erosion and sediment control. There is an authorization of appropriations of \$5 million for each of the fiscal years 2002 through 2006. (Sec. 12400)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(8) Cranberry Acreage Reserve Program

The Senate amendment states that the Secretary shall establish a program to purchase permanent easements on wetlands or buffer strips adjacent to a wetland that is environmentally sensitive and has or is used for cultivation of cranberries. The purchase price should reflect the range of values for agricultural and non-agricultural lands. The section authorizes appropriations of \$10 million. (Section 261)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and moves the item to the Miscellaneous Title of this legislation.

(9) Klamath Basin

The Senate amendment provides that the Secretary shall, in coordination with the Secretary of the Interior, establish the Klamath Basin Interagency Task Force composed of relevant federal agencies to use conservation programs to address the environmental and agricultural needs of the Klamath Basin. (Section 262)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, however, funding is provided to assist producers in the Klamath Basin under the new section 1240I, Ground and Surface Water Conservation.

The Managers encourage the U.S. Department of Agriculture to make full use of specific funding of \$50,000,000 for the Klamath Basin contained in the new water

conservation program to help farmers and ranchers with cost-share assistance, incentive payments and technical assistance.

(10) State Technical Committees

The Senate amendment expands and updates membership of State Technical Committee to include NRCS (instead of the Soil Conservation Service) as chair, Farm Service Agency, land grant colleges and universities, and forestry experts. (Section 1261)

The House bill contains no comparable provision

The Conference substitute deletes the Senate provision.

The Managers strongly encourage updating the involvement of interested experts, including those with expertise in forestry and land grant colleges. Also, the Managers are concerned about reports that in some states, members of state technical committees are not fully included. The Managers strongly encourage the Secretary to ensure that chairpersons of the committee strive to increase involvement.

Subtitle H - Repeals

(1) Provisions of the Food Security Act of 1985

The House bill repeals various authorities including the wetlands mitigation-banking program (1222(k)), environmental easement program (chapter 3 of subtitle D), conservation farm option (chapter 5 of subtitle D) and tree planting initiative (1256). Repeals various provisions of the CRP and WRP. (Section 261)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(2) National Natural Resources Conservation Foundation Act

The House bill repeals subtitle F of Title III of the 1996 FAIR Act. (Section 262)

The Senate amendment permits the Secretary to authorize the Foundation to use, license or transfer symbols, slogans and logos of the Department. Requires that all revenues be transferred to NRCS account to carry out conservation operations. (Section 221)

The Conference substitute adopts the Senate provision with a modification to authorize the Foundation to license logos of the Foundation and explicitly prohibits the licensing of any symbol or logo of a government entity. (Section 2506)

TITLE III – TRADE

(1) Market Access Program

The House bill reauthorizes the Market Access Program through 2011 and increases funding to \$200 million. (Section 301)

The Senate amendment reauthorizes MAP through 2006, and increases MAP funding to: \$100 million in 2002, \$120 million in 2003, \$140 million in 2004, \$180 million in 2005, and \$200 million in 2006. It also establishes priority for new program participants and programs in emerging markets for amounts above \$90 million and authorizes the new Quality Export Initiative to identify high quality U.S. agricultural products. This initiative will be subject to appropriations. (Section 322)

The Conference substitute adopts the Senate provision on reauthorization through 2007, at the following annual funding levels: \$100 million in 2002, \$110 million in 2003, \$125 million in 2004, \$140 million in 2005, and \$200 million in 2006 and subsequent years. It establishes that proposals submitted by new program participants and programs in emerging markets shall receive consideration equal to that given to current program participants for new funds made available. It includes no provision dealing with the Quality Export Initiative program. (Section 3103)

(2) Food for Progress

The House bill includes the following: reauthorizes Food for Progress through 2011; increases the limits on Commodity Credit Corporation funding for administrative costs to \$15 million; increases the limits on Commodity Credit Corporation funding for transportation costs related to distribution of commodities to \$40 million; excludes from the limitations on tonnage in Section 1110(g) of Food for Progress those commodities furnished on a grant basis or on credit terms under title I of the Agricultural Trade Development Act of 1954; increases limits on amounts of commodities to 1,000,000 metric tons; encourages the President to approve agreements that provide commodities to be made available for distribution or sale on a multi-year basis; allows for the use of U.S. dollars and other currencies for the monetization of commodities by authorizing the President to use “proceeds”; adds a new provision that encourages the Secretary to finalize program agreements and requests before the beginning of the relevant fiscal year; and requires the Secretary to provide the House Committee on Agriculture, House Committee on International Relations and the Senate Committee on Agriculture, Nutrition and Forestry a list of approved programs, countries and commodities, and the total amounts of funds approved for transportation and administrative costs related to Food for Progress by November 1 of the relevant fiscal year. (Section 302)

The Senate amendment includes the following: rewrites Food for Progress as a new Title VIII of the 1978 Agricultural Trade Act called “Food for Progress and Education Programs,” authorized through 2006; permits USDA to provide agricultural commodities to support introduction or expansion of free trade enterprises in recipient country economies; defines eligible commodities as “agricultural commodities (including vitamins and minerals) acquired by the Secretary or the Corporation for disposition in a program authorized under this title”; provides that not more than \$55 million of the funds made available may be used to cover non-commodity costs, of which not more than \$12 million may be used to cover administrative costs; establishes a 400,000 MT minimum tonnage per year for the program; allows multi-year PVO agreements and certified institutional partners status for PVO’s; allows monetization in U.S. dollars; encourages timely and streamlined approval programs; directs the Secretary to make program announcements before the beginning of the fiscal year; requires eligible organizations with agreements under this title to submit reports to the Secretary containing such information as is required relating to the use of commodities and funds provided for said agreements; requires that assistance under this title shall be coordinated with other forms of foreign assistance under the mechanism designated by the President; requires the Secretary to ensure that each eligible organization is optimizing the use of donated commodities, as follows: (1) taking into account the needs of target populations in recipient countries; (2) working with recipient countries and institutions or groups within those countries to design mutually acceptable programs; (3) monitor and report on

distribution and sale of eligible commodities using accurate and timely reporting methods; (4) periodically evaluate the eligible organization's program effectiveness; and (5) consider means of improving program operation.

Agricultural commodities shall be made available under this title without regard to political, geographic, ethnic, or religious identity of the recipient. The Secretary is barred from providing commodities under any agreement that requires or permits the distribution or handling of those commodities by any military forces, except when non-military channels are not available and the Secretary deems that conditions require such distributions occur.

The Senate amendment also authorizes the appropriation of such sums as may be necessary to carry out the title, plus permits the use of P.L. 480 Title I funds; Provides that all commodities related expenses must be in addition to any other P.L. 480 assistance. (Section 325)

The Conference substitute adopts the House bill provisions in the following areas: (1) the program is reauthorized through 2007; (2) an exclusion from the limitation on tonnage for those commodities furnished on a grant basis or on credit terms under title I; (3) encouragement of the President to finalize agreements before the beginning of the relevant fiscal year, and provision by the President to the relevant Committees a list of approved programs, countries, and commodities by December 1 of the relevant fiscal year; (4) definition of eligible commodities, and (5) funding levels for the program, both for non-commodity costs and administrative expenses.

The Conference substitute adopts the following House provisions with modifications. The President was encouraged to approve agreements on a multi-year basis; the provision was expanded to include all eligible organizations rather than just PVO's and to encourage multi-country agreements as well, subject to the availability of commodities.

The Conference substitute adopts the Senate provisions on monetization of commodities in U.S. dollars, on minimum tonnage. In recognition of the Senate provision on certified institutional partners, the Conference substitute adopts language to streamline, improve and clarify the application, approval, and implementation processes pertaining to agreements under the Food for Progress program. It also requires the Department to undertake consultation with the relevant Congressional Committees within one year of enactment of the Act on the Department's progress in achieving streamlining. Unlike the certified institutional partners provisions, the streamlining provisions will apply equally to all eligible organizations, whether or not they have previously participated in the program.

The Conference substitute amends the existing Food for Progress Act of 1985, rather than establishes a new Title VIII of the Agricultural Trade Act of 1978. Out of the Senate amendment, it incorporates a definition section in the statute, establishes quality assurance requirements, and requires the President to ensure that each eligible organization is optimizing the use of donated commodities, as follows: (1) taking into account the needs of target populations in recipient countries; (2) working with recipient countries and institutions or groups within those countries to design mutually acceptable programs; (3) monitor and report on distribution and sale of eligible commodities using accurate and timely reporting methods; and (4) periodically evaluate the eligible organization's program effectiveness. It also establishes the purposes of the program. (Section 3106)

The Managers are aware of the Food Aid Review conducted by the Administration, which is a continuing process of review of all foreign food aid programs. The Administration plans to make several changes beginning in FY 2003, which include USDA administering all government-to-government programs as a result of funding Food for Progress programs through Title I and USAID administering most private voluntary programs through Title II.

Under the current Food for Progress statute, eligible organizations include private voluntary organizations, cooperatives, other non-governmental and intergovernmental organizations, as well as foreign governments. In providing additional resources and establishing a minimum tonnage requirement for the Food for Progress program under this section, the Managers wish to see the program accessible to all eligible organizations submitting proposals. The Administration's ongoing food aid review should take this into consideration. In many circumstances, the institutional experience of private voluntary organizations and other organizations may be crucial in determining the success or failure of projects in emerging markets under the Food for Progress program.

(3) Surplus Commodities for Developing or Friendly Countries

The House bill authorizes the use of U.S. dollars and other currencies for the monetization of commodities and requires the Secretary to publish in the Federal Register by October 31 of each fiscal year an estimate of the total commodities available under this section for that fiscal year and encourages the Secretary to finalize agreements by Dec. 31. (Section 303)

The Senate amendment authorizes the use of U.S. dollars and other currencies for the monetization of commodities, strikes subparagraph 416(b)(8)(A), allows direct delivery of commodities to milling or processing facilities in recipient countries, with proceeds of transactions going to eligible organizations to carry out the approved project, permits PVO's to apply to become certified institutional partners, and provides that PVO's may submit multi-country proposals. (Section 334)

The Conference substitute adopts the House provision with respect to monetization and requiring the Secretary to report by October 31 the commodities available under this section for that fiscal year. The Conference substitute adopts the Senate provision with respect to encouraging submission of multi-country proposals, expanded to include all eligible organizations rather than just PVO's, and to encourage multi-year agreements as well, subject to the availability of commodities. The conference substitute omits the Senate provision on direct delivery of commodities.

The Conference substitute also adopts the Senate provision on certified institutional partners, with the following changes: within 270 days, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under Section 416(b). It also requires the Secretary to undertake consultation with the relevant Congressional Committees within one year of enactment of the Act on the Secretary's progress in achieving streamlining. These new procedures will apply equally to all eligible organizations, whether or not they have previously participated in the program. (Section 3201)

The Managers believe that the use of donated American agricultural commodities to support rural electrification overseas is a highly appropriate use of surplus commodity monetization, particularly where the USDA's own rural electrification expertise can be

added to the on-going efforts of American electric cooperatives to "export" the successful rural electrification model that was established with the Rural Electrification Administration. The Conferees encourage the Secretary of Agriculture to direct a more aggressive rural electrification development effort as part of USDA's monetization programs under section 416(b) of the Agricultural Act of 1949, including collaboration with other international development agencies in leveraging funds to build on the successful experience of American electric co-op projects in less developed countries.

(4) Export Enhancement Program

The House bill extends the Export Enhancement Act through 2011 at the current funding level. (Section 304)

The Senate amendment extends the Export Enhancement Act through 2006 at the current funding level and expands definition of unfair trade practices to include (1) pricing practices by an exporting state trading enterprise that "are not consistent with sound commercial practices conducted in the ordinary course of trade," or (2) changing U.S. "export terms of trade through a deliberate change in the dollar exchange rate of a competing exporter." (Section 323)

The Conference substitute adopts the House provision with respect to reauthorization of the program through 2007. The Conference substitute adopts the Senate provision on unfair trade practices, with the following changes: amends paragraph (2) to clarify the type of state trading enterprise covered by this definition, drops the exchange rate reference, and inserts the following list of activities: subsidies that decrease market opportunities for United States exports or unfairly distort agricultural markets to the detriment of the United States; unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology; unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; other unjustified technical barriers to trade; rules that unfairly restrict imports of United States agricultural products in the administration of tariff rate quotas; and the failure of a country to adhere to the provision of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements. (Section 3104)

(5) Foreign Market Development Cooperator Program

The House bill includes the following: reauthorizes the Foreign Market Development Cooperator Program through 2011; authorizes such sums as may be necessary to carry out this title, and in addition to any sums appropriated, authorizes \$37 million from the Commodity Credit Corporation for each of fiscal years 2002 through 2011 to carry out the program; directs the Secretary to carry out the Foreign Market Development Cooperator Program with a significant emphasis on the importance of exporting value-added agricultural products to emerging markets; specifies that the Secretary shall report to the House Committees on Agriculture and International Relations, and the Committees on Agriculture, Nutrition and Forestry and Foreign Relations of the Senate, on the funding and success of the Foreign Market Development Cooperator Program. (Section 305)

The Senate amendment contains the following: reauthorizes Foreign Market Development Cooperator Program through 2006; authorizes, from the Commodity Credit Corporation: \$37.5 million for 2002, \$40 million for 2003, and \$42.5 million for 2004,

2005 and 2006; establishes priority for new program participants and programs in emerging markets for amounts above \$35 million. (Section 324)

The Conference substitute adopts the Senate provision on reauthorizing the program through 2007, and establishes that proposals submitted by new program participants and programs in emerging markets shall receive consideration equal to that given to current program participants for additional funds made available. The substitute authorizes, from the Commodity Credit Corporation, \$34.5 million for each fiscal year between 2002 and fiscal year 2007.

The Conference substitute adopts the House provision with respect to a significant emphasis on value-added products, with clarification that the emphasis required is a 'continued significant emphasis', to recognize that USDA already places a significant emphasis on value-added, accounting for about one-third of the program. It also requires a report on funding and success of the Foreign Market Development Cooperator Program to the relevant Congressional Committees. (Section 3105)

(6) Export Credit Guarantee Program

The House bill reauthorizes the Export Credit Guarantee Program through 2011, and continues for fiscal years 2002 through 2011 the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products. (Section 306)

The Senate amendment reauthorizes Export Credit Guarantee Program through 2006, continues for fiscal years 2002 through 2006 the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products; extends terms of repayment for the supplier credit guarantee program from 180 days to 12 months, and requires Secretary to provide a report, one year after enactment of the law, on the status of multilateral export credit negotiations at the WTO and OECD. (Section 321)

The Conference substitute adopts the Senate provision and reauthorizes the program through 2007. It changes the subsection that requires the Secretary to provide a report on multilateral export credit negotiations to requiring the Secretary and the United States Trade Representative to regularly consult with the relevant House and Senate Committees on that issue. The substitute also changes the new terms of repayment for the supplier credit guarantee program from 12 months to 360 days, if an authorization of appropriations to fund loan terms greater than current length of 180 days is provided. (Section 3102)

(7) Food for Peace Program and the International Food Relief Partnership Act

The House bill reauthorizes the Food for Peace Program and the International Food Relief Partnership Act through 2011, and adds conflict prevention as a program objective. (Section 307)

The Senate amendment reauthorizes the Food for Peace Program and the International Food Relief Partnership Act through 2006, and adds conflict prevention as a program objective. (Section 311)

The Conference substitute adopts the House provision, reauthorizing the program through 2007. Program approvals should be based on the potential benefits of the program on food security and the choice of the appropriate commodity for the intended use. (Section 3011)

(8) Non-emergency Assistance

The Senate amendment adds a new provision under “(b) Nonemergency Assistance” requiring the Administrator to foster program diversity by encouraging eligible organizations to propose and implement plans that address 1 or more aspects of Food for Peace and incorporate a variety of program objectives to assist development in foreign countries. (Section 302)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with an amendment clarifying that plans shall address program objectives specified in Section 201 of the Agricultural Trade, Development and Assistance Act of 1954. (Section 3002)

(9) Funding

The House bill provides that the funding for transportation, storage and handling of P.L. 480 commodities shall be not less than 5 percent and not more than 10 percent of the funds made available under title II in each fiscal year. (Section 307)

The Senate amendment provides that the funding for transportation, storage and handling of P.L. 480 commodities shall be not less than 5 percent and not more than 10 percent of the funds made available under title II in each fiscal year. (Section 302)

The Conference substitute adopts the Senate provision. (Section 3002)

(10) Private Voluntary Organization Authority (PVO)

The House bill grants PVO’s authority to submit multi-country proposals. (Section 307)

The Senate amendment grants PVO’s authority to submit multi-country proposals. Also requires US-AID or USDA, as applicable, to establish a process enabling PVO’s and cooperatives that can demonstrate their capacity to carry out the programs, to qualify as “certified institutional partners,” which would entitle them to use streamlined application procedures, including expedited review, to receive commodities. (Section 302)

The Conference substitute adopts the House provision with the following changes: the inclusion of all eligible organizations rather than just PVO’s and to encourage multi-year agreements as well.

The Conference substitute also adopts the Senate provision with the following changes: within one year after enactment of this Act, requires the Administrator to establish streamlined guidelines and application procedures for programs under Title II, to be effective for fiscal year 2004, to the maximum extent practicable, for resource allocation for existing projects and for new project proposals. It also requires US-AID to undertake stakeholder consultation using statutory procedures, as well as consultation with the relevant Congressional Committees, within six months of enactment, on the Agency’s progress in achieving streamlining. A report is to be submitted within 270 days on progress achieved in modernizing US-AID’s information management, procurement, and financial management systems to accommodate Title II needs. (Section 3002)

(11) Use of U.S. Dollars

The House bill allows PVO’s to use U.S. dollars when monetizing commodities in foreign countries. (Section 307)

The Senate amendment allows the use of U.S. dollars when monetization is done in foreign countries. (Section 303)

The Conference substitute adopts the Senate provision on permitting eligible organizations to monetize commodities in U.S. dollars in foreign countries. (Section 3003)

(12) Minimum level of Commodities

The House bill increases the minimum level of commodities available to 2,250,000 metric tons. (Section 307)

The Senate amendment increases the minimum level of commodities available from 2,025,000 MT to: 2,100,000 metric tons for 2002; 2,200,000 metric tons for 2003; 2,300,000 metric tons for 2004; 2,400,000 metric tons for 2005; and 2,500,000 metric tons for 2006. It also adds crude degummed soybean oil to list of value-added commodities under Title II. (Section 304)

The Conference substitute adopts the House provision, with a change to 2,500,000 metric tons per year as the minimum level of commodities beginning in fiscal year 2002.

The Conference substitute adopts a new provision, changing the sub-minimum requirement for non-emergency programs to 1,875,000 tons annually (Section 3004)

The Managers ask the Administrator to examine the commodities currently shipped under Title II non-emergency programs, and determine which ones qualify as value-added products to satisfy the sub-minimum requirement under Section 204(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724).

(13) Food Aid Consultative Group

The House bill reauthorizes the food aid consultative group through 2011. (Section 307)

The Senate amendment reauthorizes the food aid consultative group through 2006. (Section 305)

The Conference substitute adopts the House provision, reauthorizing the consultative group through 2007. (Section 3005)

(14) Title II Spending

The House bill eliminates the \$1 billion cap on spending for Title II. (Section 307)

The Senate amendment raises the cap on Title II spending from \$1 billion to \$2 billion annually. (Section 306)

The Conference substitute adopts the House provision. (Section 3006)

(15) Duties of the Administrator of US-AID

The House bill requires that the Administrator of US-AID make decisions on program proposals, received from PVO's, not later than 120 days after receipt. (Section 307)

The Senate amendment requires that the Administrator of US-AID make decisions on program proposals, received from PVO's, not later than 120 days after receipt, requires the Administrator to treat proposed policy determinations the same as guidelines, and allows direct delivery of commodities to milling or processing facilities in recipient countries, with proceeds of transactions going to eligible organizations to carry

out the approved project. (Section 307)

The Conference substitute adopts the Senate provision, with the technical change that the 120 day period begins after submission of the proposal to the Administrator rather than receipt of the proposal by the Administrator, and that to the maximum extent practicable, the Administrator is encouraged to make decisions on program proposals within that period. The annual policy guidance letter issued by the Administrator shall be subject to notice and comment requirements. The conference substitute omits the Senate provision on direct delivery of commodities. (Section 3007)

The Managers note that at present, milling or processing facilities located in or near countries receiving food aid are occasionally unable to process commodities or arrange for the monetization of commodities because the non-governmental organizations coordinating or arranging the food aid delivery do not interact on a timely basis with the milling or processing facilities. This often leads to delay and inefficiencies in the food aid program.

The streamlining of procedures and regulatory requirements, and acceleration of the approval and review of projects involving food aid programs administered by USDA and US-AID are a priority in this legislation. It is equally important that participating non-governmental organizations also expedite the delivery of their projects by consulting with milling or processing facilities prior to filing project applications with USDA or US-AID. It is necessary for USDA, US-AID, and participating non-governmental organizations to act in concert to streamline and expedite procedures and activities to achieve a more effective and timely food aid delivery process.

(16) Funding for Stockpiling and Rapid Transportation, Delivery, and Distribution of Shelf-Stable Prepackaged Foods

The House bill reauthorizes at current funding level through 2011. (Section 307)

The Senate amendment reauthorizes at current funding level through 2006. (Section 308)

The Conference substitute adopts the House provision, reauthorizing the funding through 2007. (Section 3008)

(17) Sale Procedure

The House bill adds a new subsection, (l), to section 403 that provides that (b) and (h) shall apply to titles II and III of Food for Peace, section 416(b) of the Agricultural Act of 1949, and section 1110 of the Food and Security Act of 1985. It also allows for monetization in the sales to generate proceeds under these designated sections and titles. (Section 307)

The Senate amendment adds a new subsection, (l), to section 403 that provides that (b) shall apply to section 416(b) of the Agricultural Act of 1949, and title VIII of the Agricultural Trade Act of 1978. It also allows for monetization in the sales to generate proceeds under these programs, and defines reasonable market price for purposes of monetization of commodities. (Section 310)

The Conference substitute adopts the House provision with respect to sale procedure and adopts the Senate provision with respect to reasonable market price. (Section 3009)

The reasonable market price provision requires that commodities be sold at a reasonable market price in the economy where the commodity is to be sold. This would generally be

the locally prevailing price for the same or a similar commodity.

The Managers understand that, as with commercial sales, the actual sales price will be affected by product quality and delivery and payment terms. There are two primary purposes for this provision. The first is to ensure that commodities are sold at the prevailing local market price, rather than imposing an arbitrary formula approach.

The Managers believe that a relatively inflexible formula approach is undesirable because in situations in which local prices are above the formula value, the formula does not maximize proceeds from sales of commodities. Conversely, in cases in which the formula produces a price significantly above locally prevailing prices, no sales are likely to result, to the possible detriment of program operations in recipient countries.

The second reason for this provision is to bring consistency to the approaches currently used by US-AID and USDA. The Managers understand that although the two agencies generally operate in different countries at different times, some monetization programs may overlap. The Managers expect that, should this occur, the two agencies will consult to ensure that, to the extent possible, a uniform sales price is established. More generally, the Managers expect the two agencies to adopt methodologies for determining a reasonable market price that will tend to produce similar results in determining sales prices.

Finally, the Managers note that this provision is intended to be consistent with the goal of maximizing proceeds from commodity sales. In deciding whether to approve a proposed sale of commodities at the local market price, the Managers expect that both agencies will take into account the prevailing U.S. and world market prices of a commodity, including U.S. acquisition costs, transportation costs, and any localized factors that might result in significant differences between prevailing local market prices and those prices that would be expected to prevail in a pure free market. In cases in which high-quality U.S. agricultural products are purchased for the program, it should be noted that the market in the recipient country may not be sufficiently sensitive to fully reflect quality premiums.

(18) Lamb Program

The Senate amendment permits the Secretary to establish a program to provide live lamb on an emergency food relief basis to Afghanistan. (Section 309)

The House bill contains no comparable provision.

The Conference substitute incorporates the Senate provision into another section of this title dealing with a report on use of perishable commodities in food aid programs. (Sec. 3207)

(19) Reauthorize Limits on Funding for Prepositioning

The House bill reauthorizes limits on funding for prepositioning through 2011. (Section 307)

The Senate amendment reauthorizes limits on funding for prepositioning through 2006. (Section 311)

The Conference substitute adopts the Senate provision, reauthorizing the funding through 2007. (Section 3010)

(20) Authority for paying transportation costs under Title II non-emergency program

The House bill adds a provision providing the authority for the US-AID

Administrator to pay for transportation costs for nonemergency assistance under Title II, and only to least developed countries. (Section 307)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 3012)

(21) Expiration Date

The House bill extends the expiration date to December 31, 2011. (Section 307)

The Senate amendment extends the expiration date to December 31, 2006.
(Section 312)

The Conference substitute adopts the House provision, reauthorizing the program through fiscal year 2007. (Section 3011)

(22) Reauthorize Farmer-to-Farmer Program

The House bill reauthorizes the Farmer-to-Farmer Program through 2011 at the current funding level of 0.4 percent of the funds made available under titles I and II of P.L. 480 (Section 307)

The Senate amendment reauthorizes the Farmer-to-Farmer Program through 2006 and increases the share of P.L.-480 title I and title II funding which can be diverted for support of the program from 0.4 to 0.5 percent. (Section 314)

The Conference substitute adopts the House provision, reauthorizing the program through 2007 and the Senate provision that increases funding for the program. (Section 3014)

(23) Micronutrient Fortification Pilot Program

The Senate amendment re-authorizes the micronutrient fortification pilot program. (Section 313)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical corrections, also adding folic acid as a fortifying element that can be used under the program. The US-AID sponsored “Micronutrient Assessment Project” study (report issued in 1999), found significant quality problems in fortified food aid commodities, including low micronutrient levels and the loss of highly labile vitamins. A US-AID-sponsored “Micronutrient Compliance Review of Fortified P.L. 480 Commodities” (report issued in 2001) found that while progress has been made, additional follow-up is needed to assure adequate micronutrient levels in the fortified commodities and to standardize procedures used to test and monitor for compliance. Additional concerns, such as lack of shelf-life information, bioavailability and package durability have also been reported. The organization that conducted the 1999 and 2001 assessments uses an effective approach of engaging technical experts from food industries to improve the quality and nutritional content of food products for developing countries. This provision calls on the Administrator, in consultation with the Secretary, to use the same mechanism to follow-up on the 2001 compliance review recommendations to improve and assure the quality of fortified food aid commodities. (Section 3013)

(24) Emerging Markets

The House bill reauthorizes the Emerging Markets program through 2011, and increases the amount of assistance the Secretary shall provide for the Agricultural

Fellowship Program from \$10 million to \$13 million. (Section 308)

The Senate amendment reauthorizes the Emerging Markets program at current levels through 2006, but does not increase the amount of assistance. (Section 332)

The Conference substitute adopts the Senate provision reauthorizing the program through 2007. (Section 3203)

(25) Bill Emerson Humanitarian Trust

The House bill extends the Bill Emerson Humanitarian Trust Act through 2011. (Section 309)

The Senate amendment extends the Bill Emerson Humanitarian Trust Act through 2006. (Section 331)

The Conference substitute adopts the Senate provision, reauthorizing the program through 2007. (Section 3202)

(26) Technical Assistance for Specialty Crops

The House bill establishes an export assistance program to address barriers to the export of United States specialty crops; provides direct assistance through public and private sector projects; and technical assistance to remove, resolve, and/or mitigate sanitary or phytosanitary and related barriers to trade. It also gives priority to time sensitive and market access projects based on the trade effect and trade impact and authorizes \$3 million annually from the Commodity Credit Corporation. (Section 310)

The Senate amendment directs USDA to assist U.S. exporters harmed by “unwarranted and arbitrary” barriers to trade due to marketing of biotechnology products, food safety, disease, or other SPS concerns and authorizes appropriations of \$1 million annually through 2006. (Section 333)

The Conference substitute adopts the House provision, with funding provided at \$2 million per year from the Commodity Credit Corporation. (Section 3205)

(27) Farmers from Africa and Caribbean Basin Program

The House bill authorizes \$10 million for the President to establish and administer bilateral exchange programs whereby U.S. farmers and farming specialists provide technical advice and assistance to eligible farmers in Africa and the Caribbean Basin countries. (Section 311)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision, to be incorporated into the existing Farmer-to-Farmer program, authorizing appropriations, while allowing the Administrator to use up to five percent of those appropriated funds to cover administrative expenses in operating the program. (Section 3014)

(28) George McGovern-Robert Dole International Food for Education and Child Nutrition Program

The House bill authorizes the President to direct the provision of U.S. agricultural commodities and financial and technical assistance for foreign preschool and school feeding programs to reduce hunger and improve literacy (particularly among girls) and nutrition programs for pregnant and nursing women and young children. It also authorizes the appropriation of such sums as may be necessary each year through FY2011. The President has the authority to designate the administering federal agency.

For this program, eligible recipients are PVO's, cooperatives, governments and their agencies, and other organizations. Funds may be used to pay commodity transportation and storage costs, in-country activities that enhance the programs, and certain providers' administrative expenses. The House bill specifies a list of priorities for program funding and provides guidelines for application process, encourages multilateral involvement and private sector involvement, and requires assurances that local production and marketing in recipient countries are not disrupted. Annual reports to Congress are required. (Section 312)

The Senate amendment requires the establishment of an International Food for Education and Nutrition Program, as a separately funded program within the new Food for Progress title, whereby USDA may provide commodities and technical and nutrition assistance for programs that improve food security and enhance educational opportunities for preschool and primary school children in the recipient countries. USDA is authorized to use not more than \$150 million per year for four years to carry out this program. Eligible organizations are PVO's, cooperatives, nongovernmental organizations, or foreign countries, as determined by USDA. Permitted uses of funds, and various other requirements not specified here are the same as those that apply to Food for Progress activities generally. The Senate amendment includes a "graduation requirement" to provide for continuation of the program when funding terminates. It also encourages other donor and private sector involvement and requires an annual report to Congress. (Section 325(c))

The Conference substitute adopts the House bill provisions, with the following modifications: (1) accepts Senate provisions on graduation; (2) accept Senate language on availability of funds for internal shipping, transportation, and handling costs, and (3) provides \$100 million in mandatory funding for fiscal year 2003 to continue existing pilot projects. The program is to be named the McGovern-Dole International Food for Education and Child Nutrition program. (Section 3107)

The Managers expect that mandatory funds provided for fiscal year 2003 will be utilized to continue the operation of projects approved under the pilot program.

(29) Study on Fee for Services

The House bill instructs the Secretary to report to Congress on the feasibility of instituting a program charging fees to cover the costs of services performed abroad on matters within the authority of the Department of Agriculture administered by the Foreign Agriculture Service. (Section 313)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with the clarification that the report would address the feasibility of a program that charged fees would be assessed only for services performed beyond those already provided by the Foreign Agricultural Service as part of an overall market development strategy for a particular country or region. (Section 3208)

(30) National Export Strategy Report

The House bill directs the Secretary to prepare a long-range comprehensive agricultural trade strategy and to report to the House Committees on Agriculture and International Relations, and the Senate Committee on Agriculture, Nutrition and Forestry,

on the activities the Department of Agriculture has undertaken to implement the National Export Strategy Report. (Section 314)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision, changing the report to consultations with relevant Congressional Committees which will occur within six months of enactment, and every two years subsequently. (Section 3206)

(31) Exporter Assistance Initiative

The Senate amendment authorizes development of a federal website to assist aspiring exporters to learn all they need to know about getting started. An authorization of appropriations is provided at the following levels: \$1 million for each of 2003 and 2004 and \$500,000 for 2005 and 2006. (Section 326)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, amended to instruct the Secretary to maintain a website to assist exporters or potential exporters of U.S. agricultural products. No appropriations are authorized. (Section 3101)

The Managers observe that knowledge about legal and regulatory requirements that apply to the export of an agricultural product is basic to any transaction. This applies to the country in which the exporter is located and the importing foreign country. Many countries already provide at least this much assistance to private exporters. In the United States, a small exporter that cannot afford to hire a trade consultant has been forced to navigate among numerous Federal laws and regulations that impact an export transaction. Today, the Internet provides a propitious vehicle for making such information accessible. The Foreign Agricultural Service at USDA has developed a website that provides information about USDA programs that may affect the exporter, recommendations on how to develop a marketing plan, and tariff and sanitary/phyto-sanitary requirements of several countries. However the website does not alert the small exporter to U.S. laws such as, for example, the Corrupt Practices Act that may impact the export. Linkage to the website of the Treasury Department for detailed information about the Corrupt Practices Act is also necessary. A new Government website, 'FirstGov', provides access to the Department of the Treasury's website, but the FAS website does not provide a link to FirstGov.

Other U.S. agencies such as the Treasury Department's Office of Foreign Assets Control and the Commerce Department's Bureau of Export Administration enforce laws and regulations which bear on international business transactions involving agricultural products. Access to the websites of these agencies is also necessary to ensure that a potential or current exporter has access to a maximum amount of information relevant to the international commercial transaction. A small exporter needs more than just information about U.S. laws and regulations. Information about tariff and non-tariff regulations of importing countries is needed. Information about private companies in this country and abroad that may impact a marketing plan and decision to proceed with the export transaction is also necessary. A new website established by USDA, the Export Directory of U.S. Food Distribution Companies, provides a good start. The Secretary of Agriculture is directed to improve and maintain the FAS website consistent with the requirements of this provision and to coordinate the content of this website with the agency responsible for the FirstGov website. The Secretary is further directed to improve the FAS website so that an exporter may connect to links with

oversees governmental, private sector, and non-profit sector websites that provide information on market opportunities, marketing requirements and restrictions, product preferences, foreign legal considerations, and other information that may assist the exporter with marketing an agricultural product in a foreign market.

(32) Biotechnology and Agriculture Trade Program

The Senate amendment requires USDA to establish a program to assist exporters facing problems with biotech-based agricultural products. The Senate amendment requires \$15 million of CCC funding per year through 2006. (Section 333)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision establishing a stand-alone program, providing an authorization of appropriations. The provision is also revised to reflect a narrower purpose than the original Senate provision, focusing on technical assistance in addressing barriers to trade. (Section 3204)

(33) Agricultural Trade with Cuba

The Senate amendment strikes restrictions on private financing of sales of food and medicine to Cuba that were established in the FY 2001 Agricultural Appropriations bill. (Section 335)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Sense of Congress Regarding Agricultural Trade

The Senate amendment establishes Congressional priorities and concerns for bilateral and multilateral agricultural trade negotiations. (Section 336)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, changing it to reflect the Sense of the Senate rather than the Congress. Similar priorities are also reflected in the Trade Promotion Authority bill (H.R. 3005) passed by the House in 2001. (Section 3210)

(35) Report on Use of Perishable Commodities in Food Aid

The Senate amendment requires the Secretary to report on transportation, storage, and funding deficiencies that limit the use of perishable and semi-perishable commodities in USDA international food aid programs. (Section 337)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with technical changes and adds a requirement to examine the cost of shipping live lambs and other animals for use in U.S. food aid programs. (Section 3207)

(36) Sense of Senate Regarding Foreign Assistance Programs

The Senate amendment notes past success of U.S. foreign assistance in helping democratize developing nations and create U.S. commercial customers, and urges increased role of such programs in countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism. (Section 338)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, changing it to reflect the Sense of the Congress rather than the Senate. (Section 3209)

TITLE IV -- NUTRITION

(1) Short title

The Senate Amendment names Title IV the Food Stamp Reauthorization Act of 2001. (Section 401)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4001)

Subtitle A—Food Stamp Program

(2) Simplified definition of income

The House bill adds new types of income exclusions: at state option, education assistance that is required to be excluded under its Medicaid rules; “state complementary assistance program payments” that are excluded under Medicaid rules; and at state option, any income the state does not consider when determining eligibility for cash assistance under its Temporary Assistance for Needy Families (TANF) program or eligibility for medical assistance under its Medicaid program. Under the third exclusion authority, states are specifically not permitted to exclude earned income, various Social Security Act payments (e.g., Supplemental Security Income (SSI), Social Security disability and retirement benefits, and foster care and adoption assistance payments), or other types of income the Secretary judges essential to equitable eligibility determinations. (Section 401)

The Senate amendment adds new income exclusions: education assistance, “state complementary assistance program payments,” same as the House bill with technical differences and at state option; any types of income the state does not consider when determining eligibility for or the amount of cash assistance under its TANF program or eligibility for medical assistance under its Medicaid program. Under the third exclusion authority, states are specifically not permitted to exclude wages or salaries, various Social Security Act payments, regular payments from a government source (such as unemployment benefits and general assistance), workers’ compensation, child support payments (for the recipient), or other types of income the Secretary judges essential to equitable eligibility determinations. It is the intent of this provision to align, to the extent possible, with Medicaid and TANF rules and that the Secretary will only add additional types of income that are judged to be absolutely essential to make equitable determinations of eligibility in the food stamp program. (Section 412)

The Conference substitute adopts the Senate provision. (Section 4102)

The Managers intend that this provision will allow states to eliminate consideration of any types of income they do not consider when judging eligibility for temporary assistance to needy families (TANF) cash assistance or those required to be covered by Medicaid. It does not include items that are included in the definition of income but part of which are disregarded for the purposes of TANF and Medicaid by state agencies.

(3) Standard deduction

The House bill establishes multiple standard deductions equal to 9.7 percent of the federal poverty income guideline amounts used for food stamp income eligibility

determinations in FY2002. The new standard deductions would remain fixed over time. It also requires that the new standard deductions not be less than the current amount for each jurisdiction or greater than 9.7 percent of the FY2002 poverty guideline amounts for a 6-person household. In the case of the Virgin Islands, the new standard deductions would be similar to those for the 48 states and the District of Columbia. In the case of Guam, a special rule would maintain standard deduction levels at about twice the levels for the 48 states and the District of Columbia. (Section 402)

The Senate amendment establishes multiple standard deductions equal to an increasing percentage of the inflation-indexed federal poverty income guideline amounts used for food stamp income eligibility determinations: for FY2002-FY2004, the new standard deductions would equal 8 percent of each year's poverty guideline amounts; for FY2005-FY2007, the new standard deductions would equal 8.5 percent of each year's poverty guideline amounts; for FY2008-FY2010, the new standard deductions would equal 9 percent of each year's poverty guideline amounts; and for FY2011 and each following year, the new standard deductions would equal 10 percent of each year's poverty guideline amounts. The Senate amendment also requires that the new standard deductions not be less than the current amount for each jurisdiction or greater than the applicable percentage (noted above) of the poverty guideline amounts for a 6-person household. In the case of the Virgin Islands, the new standard deductions would be similar to those for the 48 states and the District of Columbia. In the case of Guam, a special rule would maintain standard deduction levels at about twice the levels for the 48 states and the District of Columbia. (Section 171(c)(2), replacing Section 413)

The Conference substitute adopts the House provision with an amendment that sets the standard deduction equal to 8.31 percent of the inflation-indexed federal poverty income guideline used for food stamp income eligibility determinations and includes comparable provisions for the Virgin Islands and Guam. (Section 4103)

(4) Transitional food stamps for families moving from welfare

The House bill provides, at state option, for 6 months of transitional food stamp benefits for families no longer eligible to receive Temporary Assistance for Needy Families (TANF). Households could receive transitional benefits for up to 6 months after termination of cash assistance, regardless of whether their certification period expires during the transitional period. The transitional benefit amount would be equal to the monthly allotment households received in the month immediately prior to termination. Households receiving transitional benefits could apply for food stamps under regular rules at any time during the transitional period. In the final month of the transitional period, states could require a household to cooperate in a re-determination of eligibility in order to receive continued benefits.

Transitional benefits would not be allowed for (1) households sanctioned under food stamp rules for intentional program violations, failure to cooperate, failure to meet work requirements, transferring assets to gain eligibility, failure to perform an action required under a federal, state, or local means-tested public assistance program, multiple receipt of food stamp benefits, or failure to fulfill child-support-related requirements and (2) households sanctioned for failure to perform an action required by federal, state, or local law relating to TANF cash assistance. (Section 403)

The Senate amendment permits states to provide transitional food stamp benefits to households who cease to receive TANF cash assistance. Under this option, households

could receive transitional benefits for up to 6 months after termination of cash assistance, without regard to normal eligibility reviews or termination of an eligibility review period. During the transitional period, food stamp benefits generally would be frozen, without required reports of changed circumstances. Transitional benefits would be equal to the monthly allotment received in the month immediately prior to termination, adjusted for (1) the change in household income because of termination of cash assistance and (2) any changes in circumstances that could increase household benefits (if the household elects to report them). In the final month of the transitional period, states could require a household to cooperate in a re-determination of eligibility in order to receive continued benefits.

Transitional benefits would not be allowed for households (1) losing eligibility under food stamp rules for intentional program violations, failure to cooperate or meet work- requirements, post-secondary students, transferring assets to gain eligibility, failure to perform an action required by a means-tested assistance program, receipt of multiple benefits, fleeing felons, or failure to fulfill child-support-related requirements, (2) sanctioned for failure to perform an action required by a federal, state, or local TANF law, or (3) in any state-designated category. (Section 429)

The Conference substitute adopts the Senate provision with an amendment that allows households to receive transitional benefits for up to 5, instead of up to 6, months after termination of cash assistance, without regard to normal eligibility reviews or termination of an eligibility review period. In addition, transitional benefits are equal to the monthly allotment received in the month immediately prior to termination, adjusted for the change in household income because of termination of cash assistance but not adjusted for any other changes in circumstances that could increase household benefits and which the household may report. The Conference substitute retains the House bill language that enables households receiving transitional benefits to apply for food stamps under regular rules at any time during the transitional period. (Section 4115)

(5) Quality control systems

The House bill reforms the food stamp quality control program to require the Secretary to use a 95 percent statistical probability (lower bound) in calculating state error rates. States with a total payment error rate (lower bound) between 6 percent and the national performance measure (plus 1 percentage point) receive no special treatment, but have to develop and implement corrective action plans to reduce errors. The bill provides that, in determining sanctions against states for high error rates, sanctions are delayed until the third consecutive year in which a state's error rate (lower bound) exceeds the national average error rate by more than 1 percentage point.

Sanctions are figured as follows: First, the state's potential total liability amount is calculated. This is the difference between its total payment error rate (point estimate) and the national performance measure plus one percentage point, multiplied by the dollar value of benefits issued in the state for the year. Then, the state's actual penalty/sanction is calculated. This assessment is "scaled" according to how far above 10 percent the state's total payment error rate (point estimate) is.

The House bill also requires the Secretary to measure states' performance with respect to (1) compliance with deadlines for prompt determinations of eligibility and issuance of benefits and (2) the percentage of negative eligibility decisions that are made correctly for each of fiscal years 2002 through 2007. It provides for "excellence bonus

payments” of \$1 million each to (1) the 5 states with the highest combined performance in the 2 measures noted above and (2) the 5 states whose combined performance in the 2 measures noted above is most improved for each of fiscal years 2002-2007. (Section 404)

The Senate amendment reforms the system that measures the degree to which states make erroneous eligibility and benefit decisions so that only states with serious, persistent problems would be sanctioned. For states with error rates below 6 percent, enhanced federal matching is reduced for 2001 and then discontinued in subsequent years. States with a total payment error rate between 6 percent and the national average plus 1 percentage point would receive no special treatment. All states are required to develop and implement corrective action plans to reduce payment errors. Each year, the Secretary is required to investigate the administration of the food stamp program in states with a total payment error rate above the national average plus one percentage point, unless sufficient information is already available to review the state’s administration. A “good cause” exception is provided. If the investigation/review results in a determination that the state has been “seriously negligent” (under standards promulgated by the Secretary), the state has to pay a fine (“initial sanction”) that reflects the extent of negligence (again, under standards promulgated by the Secretary) not to exceed 5 percent of the federal match for state administrative costs. States with a total payment error rate above the national average plus 1 percentage point are assessed fiscal penalties if they have been the subject of an investigation/review or sanctioned for high error rates in each of the 2 preceding years. This effectively sanctions states with a payment error rate above the national average plus 1 percentage point for 3 consecutive years, in the third year as in the House bill. Sanctions are figured in the same way as is done in the House bill.

Beginning with error rates calculated for FY2002, the Senate amendment establishes in law a requirement that the Secretary adjust states’ total payment error rates to take into account any increases in errors because a state serves high percentages of households with earnings or households containing non-citizens. The adjustments are similar to those carried out under current policy for states subject to penalties/ sanctions; however, they are somewhat more liberal in the measurement standard they use to identify states with “high” proportions of error-prone households, likely qualifying more states for an adjustment. For error rates figured for FY2003 and later years, additional adjustments to states’ total payment error rates are permitted, as the Secretary determines consistent with achieving the purposes of the Food Stamp Act. (Section 431)

The Senate amendment beginning with FY2002, requires the Secretary to measure states’ performance with respect to the proportion of households with children having (a) income below 130 percent of the federal poverty income guidelines and (b) annual earnings of at least half the full-time minimum wage equivalent who receive food stamps. Beginning with FY2002, it also requires the Secretary to measure states’ performance with respect to four additional measures established by the Secretary in consultation with the National Governors Association, the American Public Human Services Association, and the National Conference of State Legislatures. The additional four measures must be established not later than 180 days after enactment, and at least 1 measure must relate to the provision of timely and appropriate services to food stamp applicants and recipients.

In FY2003 and each following year, it requires the Secretary to make “high performance bonus payments” totaling \$6 million for each of the 5 measures noted above. For each measure, payments (allocated by caseload size) are to be made to the 6 states with (1) the greatest improvement in performance, (2) the highest level of performance, or (3) a combination of greatest improvement and highest performance. Among the 6 states chosen for payments under each measure, payments are allocated according to caseload size.

The Senate amendment prohibits bonus payments to states subject to a quality control system sanction for that fiscal year and it provides that the Secretary’s determinations relating to whether and in what amount bonus payments are made are not subject to judicial review. (Section 433)

The Conference substitute adopts the Senate provisions with amendments. In general, the new system eliminates features of current law under which approximately half the states must be assessed sanctions each year, reconfigures the formula for determining sanction amounts, delays any sanctions until a state has shown a persistently high error rate, explicitly recognizes a policy for new investment in improved administration by states with high error rates, places some limits on the Secretary’s ability to excuse payment of sanctions, and replaces the current system for rewarding states with very low error rates with a requirement to pay bonuses to states that exhibit exemplary administrative performance. The major features of the Conference substitute are as follows.

Threshold for potential sanctions: The threshold for sanctions is set at 105 percent of the national average, rather than the national average as under current law.

Calculation of state error rates: A state is not considered to be above the threshold unless there is a 95 percent statistical certainty that the state’s error rate is truly above the threshold.

Sanction Notification and Method of Payment: When the Secretary determines that a state must pay a sanction, the state agency, the Governor, and the state legislature must be notified. The Chief Executive Officer of the state subject to a sanction must remit the amount of the sanction or the state’s letter of credit will be reduced.

Corrective action plans: States with combined error rates of 6 percent or more are required to provide a corrective action plan to the Secretary.

Time period for sanctions: States will not have a sanction amount calculated until the second consecutive year in which their error rates exceed the threshold. If, in the following year, they still exceed the threshold, they will be required to pay an amount the Secretary has determined to be at risk.

State liability: States’ potential liability amounts will equal dollar issuance multiplied by ten percent of the amount by which a state’s error rate exceeds a six percent threshold. Under the Conference substitute, the Secretary has the authority to resolve the liability (calculated for the second consecutive year in which the state exceeds the threshold) in one of three ways: require the state to reinvest up to 50 percent of the liability; hold up to

50 percent of the liability “at risk,” to be paid as a sanction by the state the following year only if the state’s error rate continues to exceed the threshold; or to waive any amount that is not reinvested or held at risk. If a state fails to reduce its error rate to below the threshold for a third consecutive year, it must pay its ‘at-risk’ amount to the federal government. The Secretary may settle amounts required to be reinvested.

Waivers, Adjustments and Appeals: The Secretary retains the authority to waive any amount of a state’s potential liability and to make adjustments to claims against states. States continue to have the full right to appeal liability amounts.

Enhanced funding and bonus payments: Enhanced funding is eliminated for Fiscal Year 2003 and beyond and replaced by bonuses to states. The Secretary must issue regulations regarding the criteria for bonus awards for FY2005 and succeeding years. Performance criteria specified in legislation include those related to actions taken to correct errors; reduce rates of error; and improve eligibility determinations, including in the area of service delivery (such as timeliness and a low rate of improper denials). The Secretary is directed to solicit concrete ideas within these general areas from state agencies and organizations that represent state interests prior to issuing proposed regulations. For FY2003 and FY2004, the Secretary is provided the authority to issue guidance to the state regarding criteria for bonus awards.

Effective dates: The new policy is effective for error rates measured in FY 2003 and sanctions and enhanced funding laws and regulations are unchanged for FY2002 and prior years. (Sections 4118 and 4120)

(6) Simplified application and eligibility determination systems

The House bill requires the Secretary to spend up to \$9.5 million to provide grants to states to develop and implement programs that improve the food stamp application and eligibility determination process. (Section 405)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to establish a program of grants to states and other eligible entities to simplify food stamp application and eligibility determination systems and to improve access to the food stamp program. The Secretary would be required to fund grants totaling up to \$5 million per year for projects: to coordinate application and eligibility procedures; establish methods for applying and determining eligibility that use electronic alternatives; otherwise improve program administration; or improve access to the Program. Grants could not be made for on-going costs and preference would be given to government/non-government partnerships.

In addition to the types of projects described in the amendment, the Managers believe that other types of projects may be permissible under this section. These projects include but are not limited to:

- (a) establishing a single site at which individuals may apply for food stamp benefits, supplemental security income, Medicaid, states’ children’s health

- insurance program benefits, WIC benefits and benefits under other programs as determined by the Secretary;
- (b) developing systems to enable increased participation in the provision of benefits under the food stamp program through farmers' markets, roadside stands, and other community-supported agriculture programs, including wireless electronic benefit transfer systems and other systems appropriate to open-air settings where farmers and other vendors sell directly to consumers;
 - (c) encouraging consumption of fruit and vegetables by developing a cost-effective system for providing discounts for purchases of fruit and vegetables made through use of electronic benefit transfer cards; or,
 - (d) reducing barriers to participation by individuals, with emphasis on working families, eligible immigrants, elderly individuals, and individuals with disabilities.

The Conference substitute repeals existing grant authority (Section 17(i)), dependent on appropriations, in the expectation that similar grants may be made under this new authority. (Section 4116)

(7) Authorization of Appropriations: Employment and training programs

The House bill reauthorizes the existing food stamp employment and training program through FY2011. It sets the annual amount of unmatched federal funds at the current FY2002 level of \$165 million. It also preserves the current requirement to use at least 80 percent of unmatched federal funding for able-bodied adults without dependents (ABAWDs). (Section 406(a))

The Senate amendment extends the requirement for unmatched federal funding for employment and training programs through FY2006; and sets the basic amount of unmatched federal funding at \$90 million a year for FY2002-FY2006. In addition to the basic \$90 million a year, the Senate amendment requires the Secretary to allocate up to \$25 million a year for FY2002-FY2006 to reimburse states for services to able-bodied adults without dependents (ABAWDs). In order to be eligible for a share of this unmatched funding, a state must (1) exhaust its basic funding allocation and (2) make and comply with a commitment to offer an employment/training placement ("position") to all applicant/recipient ABAWDs who are in the last month of their 6-month eligibility period under ABAWD work rules and not eligible for an exemption. The Senate amendment rescinds any unmatched federal funding provided through FY2001 unless obligated by a state before enactment. However, the new \$90 million basic grant money would remain available until expended, while the new \$25 million ABAWD grant money would not. It also provides that the basic \$90 million a year in unmatched federal funding be allocated among states according to a formula established and adjusted by the Secretary that takes into account their ABAWD populations; and eliminates the requirement to use at least 80 percent of unmatched federal funding for ABAWDs.

The Senate amendment eliminates the "maintenance of effort" requirement, whereby states must maintain expenditures on employment and training programs at a level not less than FY 1996 spending in order to receive a portion of their allocation of unmatched federal funding; and eliminates the authority for the Secretary to set reimbursement levels for each qualifying employment and training slot that a state offers or fills. (Section 434)

The Senate amendment eliminates the \$25 per-month limit on the amount that states provide to participants in employment and training programs for transportation and other costs (other than dependent care costs) that are reasonably necessarily and directly related to their participation. (Section 169(c)(3)) It also eliminates the limit on federal matching payments for these costs. (Section 169(c)(4))

The Conference substitute adopts the Senate provision with technical changes, and amendments to: provide unmatched funding through FY2007, reduce the allocation from “up to \$25 million a year” to “up to \$20 million a year” to reimburse states for services provided only to ABAWDs, and eliminate the requirement that states must exhaust their basic funding allocation before being eligible for a share of this unmatched funding. (Section 4121)

(8) Authorization of Appropriations: Cost allocation

The House bill extends the required reduction in federal matching payments to states for administrative costs through FY2011. (Section 406(b))

The Senate amendment extends the required reduction in federal matching payments to states for administrative costs through FY2006. (Section 435(a))

The Conference substitute adopts the House provision with an amendment to reauthorize the required reduction in federal matching payments to states for administrative costs through FY2007. (Section 4122)

(9) Authorization of Appropriations: Cash payment pilot projects

The House bill extends the authority for cash payment projects through FY2011, if the state requests. (Section 406(c))

The Senate amendment extends authority for cash payment projects through FY2006, if the state requests. (Section 435(b))

The Conference substitute adopts the House provision with an amendment to extend the authority for cash payment projects through FY2007, if the state requests. (Section 4122)

(10) Authorization of Appropriations: Outreach demonstration projects

The House bill extends the authority for outreach demonstration projects through FY2011. (Section 406(d))

The Senate amendment extends the authority for outreach demonstration projects through FY2006. (Section 435(c))

The Conference substitute repeals the authority for outreach demonstration projects and replaces it with new grant authority found in Section 4116. (Section 4122)

(11) Authorization of Appropriations

The House bill extends the authorization of appropriations for the Food Stamp Act through FY2011. This includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 406(e))

The Senate amendment extends the authorization of appropriations for the Food Stamp Act through FY2006. This includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 435(d))

The Conference substitute adopts the House provision with an amendment to extend the authorization of appropriations for the Food Stamp Act through FY2007. This

includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 4122)

(12) Puerto Rico and Territory of American Samoa.

The House bill extends Puerto Rico's nutrition assistance block grant through FY2011, retaining annual indexing for food-price inflation using changes in the cost of the Thrifty Food Plan. It also authorizes the use of up to \$6 million to pay for upgrading and modernizing electronic data processing systems and implementing systems to simplify eligibility determinations without regard to the regular 50 percent administrative cost matching requirement. (Section 406(f))

The House bill extends American Samoa's nutrition assistance grant through FY2011 and increases the size of the annual grant to \$5.75 million in FY2002 and \$5.8 million a year for FYs 2003-2011. (Section 406(g))

The Senate amendment consolidates funding for Puerto Rico's nutrition assistance block grant and American Samoa's nutrition assistance grant and establishes the consolidated "mandatory" grant through FY2006. The base consolidated grant amount would be \$1.356 billion (FY2002), which would then be adjusted for food-price inflation using changes in the cost of the Thrifty Food Plan starting with FY2003. Under the terms of the consolidated grant, Puerto Rico would receive 99.6 percent of the annual total. Of the amount paid to Puerto Rico in FY2002, up to \$6 million could be used to pay for upgrading and modernizing electronic data processing systems, implementing systems to simplify eligibility determinations, and operating electronic benefit transfer systems without regard to the regular 50 percent administrative cost matching requirement. Not later than 270 days after enactment, the Senate amendment requires the GAO to develop and submit a report to Congress that: describes the similarities and differences (in program administration, rules, benefits, and requirements) between the regular Food Stamp program and Puerto Rico's nutrition assistance program; specifies the costs and savings associated with each similarity and difference; and states the recommendation of the GAO as to whether additional funding should be provided to carry out Puerto Rico's nutrition assistance program. Effective on the date of submission of the report, it authorizes additional appropriations for the new consolidated nutrition assistance block grant at a level of \$50 million a year.

Under the terms of the consolidated grant, American Samoa would receive .4 percent of the annual total. (Section 439)

The Conference substitute adopts the Senate provision with a number of amendments: authorizing the consolidated grant through FY2007; deleting reference to the report and authorization for appropriations; increasing the base consolidated grant amount by (approximately \$10 million per year for Puerto Rico) to \$1.401 billion in FY2003; allowing carryover of up to two-percent of funds; allowing the one-time authority to use \$6 million for upgrading and modernizing electronic data processing systems, implementing systems to simplify eligibility determinations, and operating electronic benefit transfer systems without regard to the regular 50 percent administrative cost matching requirement, in either FY2002, FY2003 or in both years. (Section 4124)

(13) Authorization of Appropriations: Assistance for Community Food Projects

The House bill extends the authority for community food project grants through FY2011 and increases the amount reserved to \$7.5 million a year, beginning in FY2002. (Section 406)

The Senate amendment extends the authority for community food project grants through FY2006; and maintains the amount reserved at \$2.5 million a year. It also increases the federal share of projects' costs to 75 percent.

The Senate amendment broadens the list of projects that must be given preference by: modifying the 4th preference category to projects that encourage long-term planning activities and multi-system, interagency approaches with multi-stakeholder collaborations, that build the long-term capacity of communities to address their food and agriculture problems (such as food policy councils and food planning associations); and adding a 5th preference category of projects that meet (through grants not exceeding \$25,000 each) specific neighborhood, local, or state food and agriculture needs including: needs for infrastructure improvement and development (purchase of equipment for production, handling, or marketing of locally produced food), needs for planning for long-term solutions, or needs for the creation of innovative marketing activities that mutually benefit farmers and low-income consumers. (Section 440)

The Conference substitute adopts the House provision with amendments to increase funding for the projects to \$5 million per year, extend the authority for community food project grants through FY2007, and add additional language describing other purposes for community food projects which must meet specific state, local, or neighborhood food and agriculture needs, including needs for infrastructure improvement and development; planning for long-term solutions; or, the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

The Conference substitute includes language from former Senate section 443 ("Innovative Programs for Addressing Common Community Problems") as a new subsection (h) and provides funding for additional years such that not later than 90 days after enactment, and on October 1 of each of fiscal years 2003 through 2007, the Secretary must allocate \$200,000 out of the funds made available under this section, to implement subsection (h), and to remain available until expended. The Conference language permits the Secretary in selecting a non-governmental organization (NGO) to carry out this provision to either contract with that NGO or provide a grant to that NGO indicating the responsibilities to be completed for the \$200,000. (Section 4125)

As was the case with the Senate amendment, the Managers intend that the NGO selected by the Secretary to carry out this subsection shall: be experienced in gathering relevant information about successful innovative programs; be experienced in working with other targeted entities (NGOs, federal agencies, states, and political subdivisions) and be experienced in providing information about such innovative programs; and be experienced in operating a national information clearinghouse. In addition, the Managers intend that the NGO selected under subsection (h) shall contribute in-kind resources toward implementation of any contract or grant and should be prepared to coordinate with targeted entities and with the Community Food Security Coalition.

(14) Authorization of Appropriations: Availability of commodities for emergency food assistance programs

The House bill extends the requirement to purchase commodities for The Emergency Food Assistance Program (TEFAP) through FY2011 and increases to \$140 million a year through FY2011 the amount of commodities the Secretary must purchase for TEFAP. Beginning in FY2002, the House bill requires the Secretary to use \$10 million a year of the TEFAP funds to pay for direct and indirect costs related to processing, storing, transporting, and distributing commodities, including gleaned commodities. (Section 406(i))

The Senate amendment extends the requirement to purchase commodities for TEFAP through FY2006 and increases the amount reserved for TEFAP to \$110 million a year for FY2002-2006. The provision setting aside \$10 million a year is the same as the House bill, but through FY2006. (Section 441)

The Conference substitute adopts the House funding level of \$140 million a year with an amendment extending the purchasing requirement through FY2007, eliminating the \$10 million a year set-aside, and increasing the authorization of appropriations from \$50 million to \$60 million a year for direct and indirect costs related to processing, storing, transporting, and distributing commodities, including gleaned commodities. (Section 4126)

Subtitle B—Commodity Distribution

(15) Distribution of surplus commodities to special nutrition projects

The House bill extends this requirement through FY2011. (Section 441)

The Senate amendment reauthorizes the commodity distribution program through FY2006. (Section 451(c))

The Conference substitute adopts the Senate provision with an amendment to reauthorize the program through FY2007. (Section 4203)

(16) Commodity supplemental food program

The House bill reauthorizes the commodity supplemental food program through FY2011. (Section 442)

The Senate amendment reauthorizes the commodity supplemental food program through FY2006. (Section 451(a))

The Senate amendment also replaces the current rule limiting administrative payments to 20 percent of the Commodity Supplemental Food Program (CSFP) appropriation with a requirement for “grants per caseload slot.” The amendment requires the Secretary to provide each state CSFP agency (from discretionary funds for the current year or carried over) an administrative grant per assigned caseload slot, as follows: for FY2003, the grant would be \$50 per assigned caseload slot adjusted for the percentage change in the state and local government price index of the Bureau of Economic Analysis between the 12-month period ending June 30, 2001, and the 12-month period ending June 30, 2002. For later years, the per-slot grant would be adjusted in the same manner. (Section 451(b))

The Conference substitute adopts the Senate provision with amendments reauthorizing the program through FY2007; requiring the Secretary to use the FY2001 fiscal year grant-per-assigned slot as the baseline from which the administrative cost grant per assigned caseload slot is calculated, rather than using \$50 as the base; requiring the Secretary to spend the amount necessary to permit all states that began to participate in

the Commodity Supplemental Food Program in the FY2000 caseload cycle to participate at a caseload level not less than their originally assigned caseload through the FY2002 caseload cycle , as determined by the Secretary. Funding from the Commodity Credit Corporation (CCC) is provided to permit the Secretary to alleviate an unusual situation that has arisen in two states that have recently implemented the CSFP. This is a one-time emergency use of CCC funds and is not intended as a precedent for drawing on the CCC to supplement appropriations for the CSFP. (Section 4201)

(17) Emergency food assistance

The House bill reauthorizes TEFAP administrative cost appropriations through FY2011 and revises the definition of costs to be covered to include the costs to the states related to the processing, storage, transporting, and distributing commodities. (Section 443)

The Senate amendment reauthorizes TEFAP administrative cost appropriations through FY2006 and revises the definition of costs to be covered to include the costs to the states related to the processing, storage, transporting, and distributing commodities. (Section 451(d))

The Conference substitute adopts the House provision with an amendment to reauthorize TEFAP administrative costs through FY2007. (Section 4204)

Subtitle C—Miscellaneous Provisions

(18) Hunger fellowship program

The House bill establishes an independent agency of the Legislative Branch of the U.S. government, the Congressional Hunger Fellows Program. (Section 461)

The Senate amendment establishes a Congressional Hunger Fellowship. This formalizes an internship program already being carried out by the Congressional Hunger Center and funded under annual appropriations bills. (Section 462)

The Conference substitute adopts the House provision but deletes a reference to “a commitment to social change” as a required attribute for fellows. In addition, it directs the program to make available to the General Accounting Office the salaries of the Executive Director and personnel, in addition to the other materials already included, to carry out audits. (Section 4404)

(19) General effective date

The House bill designates that the amendments made by this title shall take effect on October 1, 2002, unless otherwise specified. (Section 462)

The Senate amendment designates that the amendments made by this title shall take effect on September 1, 2002, except that a state agency may elect to implement any or all of the amendments on October 1, 2002. (Section 464)

The Conference substitute adopts the House provision. (Section 4405)

(20) Payment limitations; Nutrition and commodity programs

The Senate amendment increases the cap on the amount that may be claimed as an excess shelter expense deduction. For FY2003, the cap would be \$390 a month for the

48 states and the District of Columbia, \$624 for Alaska, \$526 for Hawaii, \$458 for Guam, and \$307 for the Virgin Islands. For FY2004-FY2009, amounts would be annually adjusted for changes in the Consumer Price Index for All Urban Consumers (CPI-U). Effective, FY2010, the cap is eliminated. (Section 169(c)(2))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) Encouragement of payment of child support

The Senate amendment permits states to (1) exclude completely from a household's counted income any legally obligated child support payments made by a household member (before calculating any deductions) or (2) continue to deduct them in the calculation of net income (as under current law). Regardless of a state's exclusion or deduction choice, the Senate amendment requires the Secretary to establish simplified procedures that allow a state option to determine the amount of child support paid. These must include procedures that permit states to rely on information from state child support enforcement agencies about payments made in prior months in lieu of obtaining current information from the household. The amendment also allows states to freeze the amount of any child support payment exclusion or deduction until the eligibility of the household is re-determined. (Section 411)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment and an amendment that deletes the state option to freeze the amount of child support payment exclusion or deduction. In addition, states are allowed to rely on information from child support enforcement agencies about payments made in prior months. (Section 4101)

(22) Simplified determination of housing costs

The Senate amendment mandates that states treat any required payment to a landlord as a housing or shelter cost when determining a household's shelter expenses for application of the excess shelter expense deduction. The payments are included without regard to the specific charges they cover. It also permits states to allow homeless households not receiving free shelter throughout the month to choose a standard shelter deduction from income (set by law at \$143 a month) in lieu of any excess shelter expense deduction. States could deny this deduction to households with extremely low shelter costs. Homeless households would continue to be permitted to choose the regular excess shelter expense deduction that is based on actual shelter costs. (Section 414)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that strikes the section mandating that states treat any required payment to a landlord as a housing or shelter cost when determining a household's shelter expenses for application of the excess shelter expense deduction. It does, however, permit states to allow homeless households not receiving free shelter throughout the month to receive a standard deduction from income in lieu of any excess shelter expense deduction.

The Conference substitute deletes the Senate provision that allows all required payments to landlords to count as eligible shelter costs for the purpose of calculating a food stamp excess shelter expense deduction. The Secretary should review current rules

governing allowable shelter costs and their implementation and identify any means, within existing authority, to modify or communicate these rules in a manner that makes the determination of eligible shelter costs less complicated and error prone for food stamp participants and eligibility workers. (Section 4105)

(23) Simplified utility allowances

The Senate amendment allows states choosing to make standard utility allowances (SUAs) mandatory to do so without regard to the current metered public housing and prorating rules. SUAs could be used in lieu of actual costs for all households incurring a heating or cooling expense and covered by a mandatory SUA without having to determine their utility metering status or prorated expenses. (Section 415)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4104)

(24) Simplified procedure for determination of earned income

The Senate amendment allows states to elect to determine monthly-earned income by multiplying weekly income by 4 and biweekly income by 2. The amendment requires states making this election to adjust the earned income deduction (normally 20 percent of earnings) downward for all households with earnings to the extent necessary to prevent the election from resulting in increased benefit costs consistent with standards promulgated by the Secretary. (Section 416)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(25) Simplified determination of deductions

The Senate amendment establishes a state option to disregard most types of changes in household circumstances that affect the amount of those deductions until the next determination of eligibility. The amendment makes clear that states are not permitted to disregard (1) any reported change in residence or (2) under standards prescribed by the Secretary, any change in earned income. (Section 417)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. States will be able to disregard changes in: household size; the costs for dependent care; the amount of child support payments; medical expenses for elderly or disabled individuals; and shelter costs, unless they were the result of a move. (Section 4106)

(26) Simplified definition of resources

The Senate amendment requires the Secretary to promulgate regulations under which a state may exclude any types of financial resources that it does not consider when determining eligibility for cash assistance under its TANF program, or medical assistance under its Medicaid program. This authority would not allow the exclusion of cash, vehicles (except to the extent states already are allowed to use their TANF standard to exclude vehicles), and readily available amounts in any account in a financial institution, or any similar type of resource the Secretary judges essential to equitable determinations of eligibility. The intent of this provision is to align with, to the extent possible,

Medicaid and TANF rules. The Secretary will only count types of resources that are required by law or judged to be absolutely essential to equitable determinations of eligibility in the food stamp program. (Section 418)

The Senate amendment also adds households with disabled members to those covered by the current \$3,000 liquid asset limit applied to the elderly. (Section 171(c)(1))

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions. (Section 4107)

(27) Alternative issuance systems in disasters

The Senate amendment allows the Secretary to adjust issuance systems in disaster situations to take into account any conditions that make reliance on EBT systems impracticable, effectively permitting the issuance of cash or other forms of benefits. (Section 419)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4108)

The Managers expect the authority provided in this section for alternative issuances in disaster programs will only be used in the most extreme circumstances, after the Secretary, working with the state, has exhausted all other means of benefit delivery and determined that electronic systems cannot be restored in a timely fashion and that the use of food coupons is impractical.

(28) State option to reduce reporting requirements

The Senate amendment allows states to establish semi-annual reporting requirements for any household, independent of the presence of earners or other characteristics. However, households required to report less often than once each 3 months are required to report, in a manner prescribed by the Secretary, if their income exceeds the food stamp gross income eligibility limit (130 percent of the federal poverty income guidelines). (Section 420)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4109)

(29) Benefits for adults without dependents

The Senate amendment changes the “3-months-out-of-36 months” rule to make able-bodied adults without dependents (ABAWDs) ineligible if, during the preceding 24 months they received benefits for 6 months while not meeting work-related requirements. ABAWDS ineligible under this new “6-months-out-of-24-months” rule may become eligible during any period in which they work 20+ hours a week, participate in a work program 20+ hours a week, or participate in a workfare program. In implementing the new “6-months-out-of-24-months” rule, states are required to disregard any period before enactment during which an individual received food stamps.

The Senate amendment changes the definition of a qualifying work program to include job search or job search training programs if (1) they meet standards set by the Secretary to ensure that participants are continuously and actively seeking private-sector employment and (2) no position is available for the participant in another employment or training program. (Section 421)

The House bill contains no comparable provision.
The Conference substitute deletes the Senate provision.

(30) Preservation of access to electronic benefits

The Senate amendment requires that no benefits provided through EBT systems be taken “off-line” (or otherwise made inaccessible) because of inactivity until at least 180 days have elapsed since the recipient household last accessed the account. Where benefits are taken off-line or made inaccessible, it requires that the household be sent a notice that explains how to reactivate benefits and offers assistance if the household is having difficulty doing so. These requirements apply to states as they enter into EBT contracts. (Section 422)

The House bill contains no comparable provision.
The Conference substitute deletes the Senate provision.

(31) Cost neutrality for electronic benefit transfer systems

The Senate amendment eliminates the current requirement that EBT systems not cost the federal government more than the prior paper issuance systems. (Section 423)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4110)

The Managers encourage the Department to continue its cost containment and competition efforts and its efforts to work with the states on this issue. Information about these efforts will be provided in the report detailed in Section 4110.

(32) Alternative procedures for residents of certain groups’ facilities

The Senate amendment provides a state option that allows the provision of an inflation-adjusted standardized monthly benefit to residents of group homes, rather than going through the individualized benefit calculation for each resident. The group homes that are eligible include those for the disabled; shelters for battered women/children or the homeless, and substance abuse treatment centers. Recipients’ benefits are calculated according to standardized procedures established by the Secretary and take into account benefits typically received by recipients in these group living facilities. States shall issue benefits to the facility (as an authorized representative), and the Secretary shall establish procedures to ensure that the facility does not receive a greater proportion of a recipient’s monthly benefits than the proportion of the month during which the recipient lived there.

Group living facilities are required to (1) notify the state when a recipient departs and (2) notify the recipient that the recipient is eligible for continued benefits and should contact the state about continuation of benefits.

On receiving notification that a recipient has departed a group living facility, the state is required to issue the recipient a benefit allotment covering the remainder of the month (calculated in a manner prescribed by the Secretary) unless the recipient re-applies for food stamps or the state cannot locate the recipient. The state also is permitted to issue a benefit allotment for the month following departure calculated under the standardized procedures used to set the amount received while the departed recipient lived in the group living facility. Recipients who have left group facilities and re-apply for food stamps will have their benefits determined under regular food stamp rules. (Section 424)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to convert this provision to a pilot program that tests, at the request of a state agency or state agencies, the feasibility of the alternative procedures for determining allotments for residents of groups living in certain group facilities. If an insufficient number of pilot projects are proposed by state agencies or the Secretary concludes that this is not in the best interest of the food stamp program, the Secretary must inform the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, and will not implement this provision nationwide. (Section 4112)

(33) Redemption of benefits through group living arrangements

The Senate amendment allows the Secretary to authorize group living facilities to redeem food stamp benefits through direct use of EBT cards, if they are equipped with “point-of-sale” devices. This provision allows authorized group living facilities to continue a practice they have been carrying out using waiver authority. (Section 425)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4113)

(34) Availability of food stamp program applications on the Internet

The Senate amendment requires states to make food stamp applications available on their agencies’ Internet websites in each language in which printed applications available. (Section 426)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the effective date for this provision to 18 months after enactment of this Act. Section 504 of the Rehabilitation Act requires state agencies to make their web sites accessible to people with disabilities. The requirement includes ensuring that documents are in a format in which browsers for the visually impaired can read them, and that they can be converted to Braille documents; that graphic elements that convey meaning have text explanations available; and that English language text is also available in other languages, as appropriate. Many states have already adopted standards that comply with this requirement. States should, therefore, not incur additional costs to put their food stamp application forms on their web sites. (Section 4114)

(36) Simplified determinations of continuing eligibility

The Senate amendment provides for procedures for re-determining recipient households’ continuing eligibility that are consistent with re-determination procedures in other programs serving low-income families. It replaces assigned certification periods and the rules governing recertification with new “eligibility review periods” under which states periodically review the eligibility status of recipient households. Eligibility review periods are up to 12 months (or 24 months if all adult household members are elderly or disabled), and states are required to have at least 1 contact with each household every 12 months. Eligibility review periods are not necessarily assigned to each household when their eligibility is established. Instead, states are mandated to periodically require each household to cooperate in a re-determination of eligibility. Each re-determination is based on information supplied by the household and has to conform to standards established by the Secretary, and the interval between redeterminations cannot exceed 12

or 24 months. Where households are found ineligible (or eligible for a reduced amount) in their re-determination, they can continue to receive benefits until the conclusion of any fair hearing process. (Section 427)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(37) Clearinghouse for successful nutrition education efforts

The Senate amendment requires the Secretary to (1) ask states for descriptions of successful nutrition education programs for the food stamp and other nutrition assistance programs, (2) make them available on the Agriculture Department's website, and (3) inform states of their availability on the website. (Section 428)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. In March 2002, the U.S. Department of Agriculture unveiled a Website that features a clearinghouse for nutrition education efforts described in the Senate amendment.

(38) Delivery to retailers of notices of adverse action

The Senate amendment permits notices of adverse action against retailers to be delivered by any form of delivery that the Secretary determines will provide evidence of delivery. (Section 430)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4117)

(39) Improvement of calculation of state performance measures

The Senate amendment changes the deadline for completion of error-rate determinations and arbitration of state-federal differences to May 31st; it also changes the deadline for the determination of final error rates and claims against states to June 30th. (Section 432)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4119)

(40) Coordination of program information efforts

The Senate amendment permits states to use Temporary Assistance for Needy Families (TANF) funds to conduct food stamp information informational activities. (Section 436)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers understand that, to further the purposes of TANF, it is current policy to allow states to use TANF (and "maintenance of effort") funds for food stamp informational activities directed to families, long as they do not also charge these same costs to the food stamp program. The Managers expect the Secretary and the Secretary of Health and Human Services to issue guidance that clearly informs states of this policy.

(41) Expanded grant authority

The Senate amendment extends the Secretary's waiver authority to cover any and all contracts and grants authorized under this section. (Section 437)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4123)

(42) Access and outreach pilot programs

The Senate amendment requires the Secretary to make grants to states and other entities to pay the federal share (75 percent) of the cost of projects to improve access to food stamp benefits or outreach to eligible individuals. It authorizes appropriations totaling \$3 million for FY2003-FY2005 for pilot programs and requires the Secretary to evaluate funded projects, but limits spending on evaluations to no more than 10 percent of funds made available. Criteria for selecting grantees are to be developed by the Secretary and include a record of serving low-income individuals, ability to reach hard-to-serve populations, innovative proposals in the application, and the development of public-private partnerships and community linkages. Preference is required for project partnerships between states and private/public entities (e.g., food banks, community-based organizations, public schools and health clinics, nonprofit health or welfare agencies). At least 1 grantee has to be selected from each Food and Nutrition Service (FNS) region and additional rural or urban areas chosen by the Secretary. The Secretary is not required to select grantees where an insufficient number of applications have been received. (Section 438)

The House bill contains no comparable provision.

The Conference substitute combines Section 405 of the House Bill with Section 438 of the Senate amendment, as described in Section 4116: “Grants for simple application and eligibility determination systems and improved access to benefits.”

(43) Use of approved food safety technology

The Senate amendment bars the Secretary from prohibiting the use of “any technology that has been approved by the Secretary or the Secretary of Health and Human Services “ in acquiring commodities for distribution through TEFAP, the Food Distribution Program on Indian Reservations (FDPIR), the Commodity Supplemental Food Program (CSFP), and programs under the Richard B. Russell National School Lunch Act and the Child Nutrition Act. This bar is effective on enactment. (Section 442)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment that clarifies that the Secretary cannot prohibit the use of any technology to improve food safety that has been approved or is otherwise allowed by the Secretary or the Secretary of Health and Human Services. In implementing this provision, the Secretary is not expected to set aside established, well-founded procurement practices. (Section 4201)

The Managers expect the Secretary to continue to make commodity purchases, taking into consideration the acceptability by recipients of products purchased and considering the relative costs of products available for purchase.

(44) Innovative programs addressing common community problems

The Senate amendment requires the Secretary to offer a contract to a non-governmental organization to coordinate with federal agencies, states, political subdivisions, and nongovernmental organizations (“targeted entities”) to develop, and recommend to the targeted entities, innovative programs for addressing “common

community problems” including loss of farms, rural poverty, welfare dependency, hunger, the need for job training, juvenile crime prevention, and individuals’ and communities’ need for self-sufficiency. The organization must be selected competitively and must (1) be experienced in working with targeted entities and organizing workshops that demonstrate programs to targeted entities, (2) be experienced in identifying programs that effectively address “common community problems,” (3) agree to contribute in-kind resources and provide targeted entities information free of charge, (4) be experienced in and capable of receiving information from (and communicating with) targeted entities throughout the U.S., and (5) be experienced in operating a national information clearinghouse that addresses “common community problems.” It also makes available to the Secretary mandatory funding totaling \$400,000 to carry out the contract in two installments effective on enactment.

This Senate provision was based in part on a project (called “Reinvesting in America”) in which a non-profit group headquartered in New York, called World Hunger Year, gathered information about successful innovative local programs and then advised other NGOs, communities, or city, state or federal agencies (targeted entities) about these successful projects and about how to replicate them. This turned out to be a very efficient approach because other communities or agencies would be aware of the lessons learned by the community that originated the idea. World Hunger Year held “replication workshops” in which they advised these targeted entities about how to replicate those successful programs in other areas. World Hunger Year officials also provided information about some of these programs to the Community Food Security Coalition and to federal Departments. (Section 443)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Conference substitute includes a variation of this provision in House Section 440, as described in Section 4125.

(45) Report on use of electronic benefit transfer systems

The Senate amendment requires the Secretary to submit a report to Congress on (1) difficulties relating to use of EBT systems, (2) the extent of fraud and the types of fraud that exist, and (3) the efforts being made by the Secretary, retailers, EBT contractors, and states to address difficulties and fraud in EBT systems. The report is due no later than one year after enactment. (Section 444)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that changes the elements to be included in the report. The report will include: a description of the status of statewide EBT implementation in the food stamp program; an indication of the number of vendors that currently hold an EBT-related contract with the states; information on the number of states that are working with multiple vendors and a description of how responsibilities are divided among the various vendors and other organizations within a given state; an explanation of the reasons any state is not operational statewide by October 1, 2002, how these issues are being addressed, and the expected date for statewide EBT operations; a description of the issues faced by any states that have awarded a second EBT contract in the last two years and the steps taken to resolve them; a description of the issues faced by any states that will award a second EBT contract within the next two years and strategies they are considering to address

these issues; initiatives being considered or taken by USDA, food retailers, EBT vendors, and client advocates to address any outstanding issues with respect to EBT systems; and an examination of areas of potential advances in electronic benefit delivery in the next 5-10 years including but not limited to access to electronic benefits in farmers' markets, increased use of EBT transaction data to identify and prosecute fraud, and the fostering of increased EBT vendor competition to ensure cost-containment and optimal service. (Section 4111)

(46) Vitamin and mineral supplements

The Senate amendment adds dietary supplements that “provide exclusively 1 or more vitamins or minerals” to the food items that may be purchased with food stamp benefits.

Not later than April 1, 2003, the amendment requires the Secretary to contract with a scientific research organization to study and develop a report on technical issues, economic impacts, and health effects associated with allowing individuals to use food stamp benefits to purchase dietary vitamin-mineral supplements. The report is to be submitted to the Secretary no later than 2 years after the contract is entered into. The Senate amendment authorizes \$3 million for the report. At a minimum, the report is to examine: the extent to which problems arise in the purchase of vitamin-mineral supplements with EBT cards; the extent of any difficulties in distinguishing vitamin-mineral supplements from herbal and botanical supplements (for which food stamp benefits may not be used); whether recipients spend more on vitamin-mineral supplements than non-recipients; the extent to which vitamin-mineral supplements are substituted for other foods purchased with food stamp benefits; the proportion of the average food stamp allotment that is being used to purchase vitamin-mineral supplements; and the extent to which the quality of recipients’ diets has changed as the result of allowing them to use food stamp benefits to purchase vitamin-mineral supplements. (Section 445)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(47) Partial restoration of benefits to legal immigrants

The Senate amendment makes legal permanent residents under age 18 eligible for food stamps without regard to date of entry. It also exempts them from requirements that their sponsors’ financial resources be deemed to them in determining food stamp eligibility. The Senate amendment also reduces the work history requirement for legal permanent residents’ eligibility for food stamps to 16 quarters (4 years); removes the 7-year limit on eligibility for refugees and people seeking asylum, Cuban/Haitian entrants, certain aliens whose deportation is being withheld for humanitarian reasons, and Vietnam-born Americans fathered by U.S. citizens; and makes eligible legal permanent residents receiving government disability benefits regardless of date of entry so long as they meet any non citizen test applied by the program under which they receive benefits. (Section 452)

Effective April 1, 2003, the Senate amendment makes eligible individuals who have continuously resided in the U.S. as “qualified aliens” for a period of 5 years or more beginning on the date on which the qualified alien entered the U.S. However, eligibility based on this new 5-year residence rule would not apply in the case of an alien who

enters the country illegally and remains illegally for a period of one year or more (or has been an “illegal alien” for one year or more) unless the alien has continuously resided in the U.S. for a period of 5 years or more as of the “date of enactment.” (Section 170(b) and (c))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that eliminates the provision that restricts application of the new 5-year residence rule by denying it to aliens who enter the country illegally and remain illegally for a period of one year or more. The substitute also eliminates the provision that changes the work history requirement provision for legal permanent residents’ from 40 quarters (in current law) to 16 quarters and the removal of the 7-year limit on the length of time that refugees and people seeking asylum may participate in the program. The Managers note that application of the new 5-year residence rule to refugees and asylees has the same effect as lifting the 7-year limit. (Section 4401)

(48) Commodities for school lunch programs

The Senate amendment extends, until FY2004, provisions of current law that remove a mandate that any “bonus” commodities acquired for agricultural support purposes and donated to schools be counted toward a minimum requirement that 12 percent of all school lunch assistance be in the form of commodities. The provision, therefore, mandates that only entitlement commodities count toward the 12 percent requirement through FY2003. (Section 453)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision. (Section 4301)

(49) Eligibility for free and reduced-price school meals: military housing

Effective on enactment and through FY2003, the Senate amendment requires that, in cases where military personnel live in “privatized” housing, their housing allowance not be counted as income in determining eligibility for free and reduced-price school meals. (Section 454)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4302)

(50) Eligibility for assistance under the special supplemental nutrition program from women, infants, and children

Effective on enactment, the Senate amendment adds an option for states to exclude any housing allowance in cases in which military personnel live in “privatized” housing whether on base or off base. (Section 455)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4306)

(51) Report on conversion of the WIC program into an individual entitlement program

The Senate amendment requires, no later than December 31, 2002, a report from the Secretary to the House Committee on Education and the Workforce and the Senate Committee on Agriculture, Nutrition, and Forestry that analyzes the conversion of the WIC program from a discretionary program into an individual entitlement program. It

also requires the Secretary to use funds made available to carry out the WIC program to fund the cost of the report. (Section 456)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

The Managers expect that, in preparation for child nutrition programs' reauthorization in FY2003, the Department will work with the Congressional Budget Office, the Office of Management and Budget and others to review the current WIC funding approach and alternative approaches to ensure an appropriate level of funding is available throughout the fiscal year. Also in preparation for this legislation, the Managers encourage the continued development, refinement, and testing of a national standard for WIC electronic benefit transfer (EBT) transactions. The Managers encourage the completion of work on a national standard for WIC EBT transactions prior to WIC reauthorization.

In addition, the Managers understand that several states differentiate between 100 percent fruit juice and blended 100 percent fruit juices in formulating an approved WIC list. The Managers are aware that a number of factors are considered by a state when selecting products for its approved WIC list. The Managers encourage states not to limit the availability of eligible food choices of WIC participants, and strongly urge states to evaluate objectively the merits of WIC-eligible food products. The Managers encourage the Department to provide guidance to the states, making them aware that blended 100 percent fruit juices are permissible WIC products.

(52) Use of commodities for domestic feeding programs

The Senate amendment provides that, notwithstanding any provision of law concerning commodity donations, any commodities acquired in the conduct of CCC operations and any "Section 32" commodities may be used for any domestic feeding program involving acquisition and use of commodities. This authority applies to the extent that the commodities involved are in excess of quantities needed to carry out other obligations (including quantities otherwise reserved for a specific purpose). The domestic feeding programs covered by this authority include TEFAP, and programs authorized under the Richard B. Russell National School Lunch Act, the Child Nutrition Act, the Older Americans Act, or other laws the Secretary determines appropriate. (Section 457)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4202)

The Managers recognize that, under current law, the source of funding for the purchase of a particular commodity can limit the eligible recipient programs. As a result, distribution of commodities to the Department's School Nutrition Programs and other domestic programs has sometimes been difficult or prevented entirely. The limitation in the current law has stymied the two-fold purposes of commodity purchases - to support American agriculture and to provide nutritious foods through our domestic feeding programs. For purposes of this distribution authority, the Managers consider eligible excess commodities to be those that are purchased by the Commodity Credit Corporation or by the Secretary and remain available after all other authorized distributions, including distribution of specific quantities reserved for specific purposes, have been satisfied. This section allows more efficient, expeditious and direct distribution of excess commodities by expanding the Secretary's existing distribution authorities.

(53) Purchase of locally produced foods

The Senate amendment requires the Secretary to: encourage institutions participating in the School Lunch and Breakfast programs to purchase locally produced foods, to the maximum extent practicable and appropriate and in addition to other food purchases; advise these institutions of the locally produced food policy; and provide start-up grants to up to 200 institutions to defray initial costs of equipment, materials, storage facilities, and similar costs incurred in carrying out the locally produced food policy. Also it authorizes appropriations of \$400,000 a year for FY2002-FY2006. (Section 458)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The intent of the Managers is to authorize the Secretary to award modest start-up grants for equipment, materials and similar costs associated with purchasing locally produced foods. It is not the intent to create a geographical preference for purchases of locally produced foods or purchases made with grant funds. All purchases are to be made competitively, consistent with federal procurement laws and regulations.

The Conference substitute also includes an amendment that treats Puerto Rico in the same way as Hawaii is treated under the Buy America provision in the National School Lunch Act. It extends, to the extent practicable, an advantage of domestic grown or produced products over foreign products, to Puerto Rico for purposes of the School Lunch Program. The Buy America provision originally applied only to the 48 contiguous states with the later addition of Hawaii.

The Managers want to make clear that school food authorities are still required to follow federal procurement rules calling for free and open competition and limit local product purchases to those that are practicable. Furthermore, while products from Puerto Rico will have an advantage over foreign products, this provision will not give an advantage to products produced or grown in one of the 48 contiguous states or Hawaii. (Section 4303)

(54) WIC farmers' market nutrition program

The Senate amendment makes available an additional \$15 million in mandatory funding for the WIC farmers' market nutrition program no later than 30 days after enactment. (Section 460)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that funding for the program is made available out of the Commodity Credit Corporation. This emergency allocation of CCC funding to the WIC farmers' market nutrition program is made to meet a one-time shortfall and is not intended to set a precedent for the use of CCC resources to support the WIC farmers' market nutrition program. (Section 4307)

(55) Fruit and vegetable pilot program

The Senate amendment requires the Secretary to use "Section 32" funds to conduct a pilot program to make free fruits and vegetables available to students in 25 schools in each of four states and students in schools on one Indian reservation, in the 2002-2003 school year. It also requires an evaluation of the pilot to determine whether students take advantage, whether interest increased or lessened over time, and what effect the pilot has

on vending machine sales and sales of school meals. The Secretary is required to use \$200,000 in "Section 32" funds to carry out the evaluation. The evaluation is to be conducted through the Economic Research Service and submitted to the House Committee on Education and the Workforce and the Senate Committee on Agriculture, Nutrition, and Forestry not later than one year after implementation of the pilot program. (Section 461)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments: The pilot will begin in July 2002 and last one year; free fresh and dried fruits and fresh vegetables will be made available throughout the school day in one or more areas designated by the school; not later than one year after the implementation of the pilot program, the Secretary (acting through the Economic Research Service) shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the results of the pilot program; \$6 million of Section 32 funds shall be made available to carry out this pilot program. (Section 4305)

The Managers agree that the intent of the pilot program is to determine the feasibility of carrying out such a program and its success as determined by the students' interest in participating in the program. The Managers encourage USDA to work with the schools to collect information on the types of schools that ultimately participate in the program, how schools choose to implement the program (including information on whether or not they incorporate nutrition education), and reasons for different implementation approaches. The Department is encouraged to find out from the schools about lessons learned and whether or not (and why) they are interested in continuing to participate in a similar program. To the extent practical, the Department is also asked to find out from teachers and/or students about students' attitudes and actual behavior over the course of time. The Managers recommend the selection of the following four states to participate in the pilot: Indiana, Iowa, Michigan, and Ohio. The Secretary will select the Indian reservation and the schools within each of the states that will participate in the pilot project.

(56) Nutrition information and awareness pilot program

The Senate amendment authorizes the Secretary to establish-- in not more than 15 states-- a pilot program to increase domestic consumption of fresh fruits and vegetables and convey related health messages. It authorizes appropriations of \$25 million a year for FY2002-FY2006. The federal share of project costs is 50 percent and funds are not available to any foreign for-profit corporation. Where practicable, the amendment requires the Secretary to: establish the program in states where production of fresh fruits and vegetables is a significant industry; and base the program on "strategic initiatives," including health promotion and education interventions, public service and paid marketing activities, and health promotion and social marketing campaigns. In selecting states, the Senate amendment requires the Secretary to take into account the state's experience in: carrying out similar activities and its ability to be innovative, conduct marketing campaigns to promote produce consumption, track increases in levels of produce consumption, and to optimize the availability of produce. (Section 463)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments: establishing in not more than 5 states, and for a period not to exceed 4 years for each participating state, a pilot program for the purpose of increasing the domestic consumption of fresh fruits and vegetables and conveying related health promotion messages; funds may not be used to disparage any other agricultural commodities and funds made available to states under this program may not be provided by a state to any foreign for-profit corporation; regarding the Secretary selecting states to participate in the program, the funds may be used to enhance existing state programs that are consistent with the purposes of this section, and the Secretary shall take into consideration states' experience in carrying out similar projects or activities, innovative approaches, and the ability of the state to promote and track increases in levels of produce consumption; participating states shall establish eligibility criteria under which the states may select public and private sector entities to carry out demonstration projects under this program ; authorizing to be appropriated \$10 million per fiscal year 2002 through 2007 to carry out this section. (Section 4403)

TITLE V – CREDIT

(1) Eligibility of Limited Liability Companies for Farm Ownership Loans, Farm Operating Loans, and Emergency Loans

The House bill includes limited liability companies as entities eligible for USDA farmer loan programs. (Sec. 501)

The Senate amendment is identical to the House provision. (Sec. 521)

The Conference substitute adopts the House provision and also includes trusts as eligible entities. (Sec. 532)

(2) Suspension of Effectiveness of Certain Provision.

The House bill provides that Sec. 319(b) of the Consolidated Farm and Rural Development Act (ConAct) limiting loan eligibility of borrowers with Farm Service Agency loan guarantees will have no effect through December 31, 2006. (Section 501)

The Senate amendment amends Sec. 311(c) of the ConAct by adding new provisions-- (1) to require the Secretary to waive the direct OL loan eligibility limitations to a farmer or rancher who is a member of an Indian tribe and whose operation is within an Indian reservation; and (2) to authorize the Secretary, on a case-by-case basis, to grant a waiver for a direct OL loan to a borrower one time for a period of two years if the borrower demonstrates, a) he has a viable farm or ranch operation; b) he has applied for commercial credit from two commercial lenders; c) he was unable to obtain a commercial loan, including a loan guarantee; and d) he has completed successfully or will complete within one year a borrower's training course required under Sec. 359 of the ConAct. (Section 502(b))

The Conference substitute adopts the House provision with regard to loan eligibility under Section 319 (b) of the ConAct. (Sec. 512)

The Conference substitute adopts the Senate provision with regard to the case by case determination on the one time waiver of two years. The substitute also permits the Secretary to waive limitations with respect to direct loans for farmers and ranchers who farm land subject to the jurisdiction of an Indian Tribe, or when applicable security interests are subject to such jurisdiction, if commercial credit is not generally available.

(Sec. 511)

(3) Administration of Certified Lenders and Preferred Certified Lenders Programs.

The House bill amends Sec. 331(b) of the ConAct to add a new provision authorizing the Secretary to administer the certified and preferred lender guaranteed loan programs through central offices in states or multi-state areas. (Sec. 503)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make the authority discretionary. (Sec. 539)

(4) Simplified Loan Guarantee Application Available for Loans of Greater Amounts.

The House bill amends Sec. 333A(g)(1) of the ConAct to increase the loan amount of the guaranteed program using a simplified short form to a maximum of \$150,000. (Sec. 504)

The Senate amendment amends Sec. 333A(g)(1) to increase the loan amount of the guaranteed program using a simplified short form to \$100,000. (Sec. 526)

The Conference substitute sets the loan amount at \$125,000. (Sec. 537)

(5) Elimination of Requirement that Secretary Require County Committees to Certify in Writing that Certain Loan Reviews Have Been Conducted.

The House bill strikes Sec. 333(2) of the ConAct to remove the requirement that county committees must certify in writing annually that farmer program borrowers' business operations and credit histories have been reviewed for the borrowers to continue to be eligible for the loan program. (Sec. 505)

The Senate amendment amends Sec. 333(2) by removing the requirement that local or area FSA committees must certify in writing that they have reviewed the credit histories, business operations and continued eligibility of all borrowers. The amendment retains language requiring that these annual reviews be conducted. (Sec 525)

The Conference substitute adopts the Senate provision. (Sec. 536)

(6) Authority to Reduce Percentage of Loan Guaranteed if Borrower Income is Insufficient to Service Debt.

The House bill amends Sec. 339(c)(4)(A) and (d)(4)(A) of the ConAct dealing with the certified and preferred guaranteed lending program to authorize the Secretary to guarantee less than 80 percent of farm program loans even though the borrower does not show adequate income as described in current law. (Sec. 506)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Timing of Loan Assessments.

The House bill strikes language in Sec. 360(a) of the ConAct to conform to a provision of the 1994 USDA Reauthorization Act that eliminated a requirement for the local county committee to approve a borrower's eligibility for farmer program loans. (Sec. 507)

The Senate amendment amends Sec. 360(a) of the ConAct by striking the words, "established pursuant to section 332". (Sec 552(d))

The Conference substitute adopts the House provision. (Sec. 546)

(8) Making and Servicing of Loans by Personnel of State, County or Area Committees.

The House bill amends Subtitle D of the ConAct to add a new section 376 to require the Secretary to use Farm Service Agency state, area or county office employees to make and service farmer program loans if the personnel are trained to do so. This authority overrides the 90-day finality rule of FSA state, area or county office employees in Sec. 281(a)(1) of the USDA reorganization act. (Sec. 508)

The Senate amendment amends Sec. 281(a)(1) of the Department of Agriculture Reorganization Act so that the finality rule does not apply to an agricultural credit decision made by a state, area or county FSA employee. (Sec. 551)

The Conference substitute adopts the House provision.. (Sec. 549)

This section would enable the Secretary to employ personnel of a State, county or area committee to make and service USDA farm loans to the extent the personnel are trained to do so. The Managers believe that the Secretary should provide that these individuals have been adequately trained in these areas in a comparable manner as USDA Farm Service Agency employees with the same job responsibilities. Furthermore, the Secretary should ensure that the credit decisions of these individuals are subject to the same USDA loan review as any USDA employee making credit decisions, including internal control review, and disciplinary action to protect against the misuse of government funds.

(9) Eligibility of Employees of State, County, or Area Committees for Loans and Loan Guarantees.

The House bill Amends Subtitle D of the ConAct to add a new section 377 to make eligible Farm Service Agency local county office employees and USDA employees for farmer program loans so long as a local county office other than the applicant's home office approves the loan application. (Sec. 509)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment providing that when applying for loans, local/county employees apply to the State level and State employees apply to the federal level. (Sec. 550)

This section would allow employees of a State, county or area committee to be eligible for USDA farm loans as long as these loans are approved at a higher level within the Farm Service Agency, either at the state office or national level. The Managers believe it is important for these employees, many of whom are farmers in their communities, to have access to the same farm loan programs as other producers. Nevertheless, the Managers believe that a higher level of review is appropriate to alleviate concerns regarding the eligibility of these individuals for the farm loan programs.

(10) Emergency Loans in Response to an Economic Emergency Resulting from Sharply Increasing Energy Costs.

The House bill amends: 1) Sec. 321(a) of the ConAct to include among natural disasters economic disasters caused by high energy costs and crop and livestock quarantines for which farmers, ranchers or persons engaged in aquaculture may be eligible for disaster loans; 2) Sec. 323 of the ConAct to conform disasters or emergencies referred to in this section caused by plant or animal quarantines or sharply rising energy

costs; 3) Sec. 329 of the ConAct by adding a new subsection (b) requiring the Secretary to make financial assistance available when energy costs for any three-month period is at least 50 percent greater than the average of the preceding five years and the applicant's income loss was incurred to prevent livestock mortality, degradation of perishable commodities or damage to field crops; and 4) Sec. 324(a) of the ConAct by adding two provisions to limit the amount of any loan made in response to a quarantine to \$500,000 and any loan made in response to an energy emergency to \$200,000. (Sec. 510)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision only on providing new authority to make emergency loans for plant or animal quarantines. (Sec. 521)

(11) Extension of Authority to Contract for Servicing of Farmer Program Loans.

The House bill reauthorizes the program in Sec. 331(d) of the ConAct through 2011 to allow the Secretary to contract with regulated financial institutions to service farmer program loans under the ConAct and removes the "temporary" designation of this program. (Sec. 511)

The Senate amendment amends Sec. 331 by striking subsections (d) [loan servicing pilot program for farm loans] and (e) [authority for the Secretary to use private debt collection agencies] and provides that any existing contracts are unaffected by this provision. (Sec. 523)

The Conference substitute adopts the Senate provision. (Sec. 534)

(12) Authorization for Loans.

The House bill amends Sec. 346(b)(1) by reauthorizing the farmer loan programs at such sums as may be necessary. (Sec. 512)

The Senate amendment amends Sec. 346(b)(1) of the ConAct by providing not more than \$3,796,000,000 for each of the fiscal years 2002 through 2006. Of the above amount in each fiscal year, \$770,000,000 shall be for direct loans of which—

- 1) \$205,000,000 shall be for farm ownership loans; and
- 2) \$565,000,000 shall be for operating loans.

Of the remainder of the above amount in each fiscal year, \$3,026,000,000 shall be for guaranteed loans of which --

- 1) \$1,000,000,000 shall be for guaranteed farm ownership loans; and-
- 2) \$2,000,026,000 shall be for guaranteed operating loans. (Sec. 529(1)(A))

The Conference substitute adopts the Senate provision with an amendment to provide the authorization from fiscal years 2002 to 2007. (Sec. 541)

(13) Reservation of Funds for Direct Operating Loans for Beginning Farmers and Ranchers.

The House bill amends Sec. 346(b)(2)(A)(ii)(III) of the ConAct to reauthorize the reservation of beginning farmer and ranchers loan amounts at 35 percent of the funds through 2011. (Sec. 513)

The Senate amendment amends Sec. 346(b)(2)(A)(ii) of the ConAct to provide that the Secretary shall reserve during fiscal years 2002 through 2006 35 percent of the funds made available for direct operating loans authorized to be appropriated under the ConAct. Further, in addition to funds made available under Agricultural Appropriations, the Secretary shall use \$5,000,000 of funds of the CCC for fiscal year 2002 to make loans

described in section 346(b)(2)(A)(i). (Sec. 529(1)(B))

The Conference substitute adopts the House provision with an amendment to provide the authorization from fiscal years 2002 to 2007. (Sec. 542)

(14) Extension of Interest Rate Reduction Program.

The House bill amends Sec. 351(a)(2) to reauthorize the interest rate buy-down program for farmer program loan guarantees through 2011. (Sec. 514)

The Senate amendment amends Sec. 351 of the ConAct and replaces subsection (c) by providing an interest rate reduction of three percent for farmers and ranchers and four percent for beginning farmers and ranchers; authorizes \$750,000,000 to carry out this program; and requires the Secretary to reserve until April of each fiscal year not less than 25 percent of the funds for the interest rate reduction program for beginning farmers and ranchers. (Sec. 530)

The Conference substitute adopts the Senate provision with an amendment that retains current law on the interest rate, but reserves 15% of funds in a fiscal year for beginning farmers and ranchers until March 1st and provides for a permanent authorization of \$750 million annually. (Sec. 543)

(15) Increase in Duration of Loans under Down Payment Loan Program.

The House bill amends Sec. 310E (b)(3) of the beginning farmer and rancher down payment loan program by increasing the loan repayment period to 15 years and makes a conforming amendment to Sec. 310E (c)(3)(B). (Sec. 515)

The Senate amendment amends Sec. 310E (b)(3) of the beginning farmer and rancher down payment loan program by increasing the repayment period to 20 years (Sec. 507(1)(B)). The Senate amendment also makes a conforming amendment to Sec. 310E (c)(3)(B). (Sec. 507(2))

The Conference substitute adopts the House provision. (Sec. 505)

(16) Horse Breeder Loans.

The House bill (1) defines a horse breeder as a person that derives more than 70 percent of the income of the person from the business of breeding, boarding, raising, training or selling horses during the shorter of a) the five-year period ending on Jan. 1, 2001; or b) the period the person has been engaged in the business; (2) directs the Secretary to make a loan to an eligible horse breeder for losses suffered from mare reproductive loss syndrome; (3) defines eligible breeders are those a) who suffered at least a 30 percent loss of mare offspring as a result of mare reproductive loss syndrome during the periods of Jan. 1, 2000 – Oct. 1, 2000, or Jan. 1, 2001 – Oct. 1, 2001. Losses could be from mares having failed to conceive, or miscarried, aborted or otherwise failed to produce a live healthy foal. Mares could be owned by a breeder or boarded on a farm owned, operated or leased by a breeder; b) who, during the period Jan. 1, 2000, and ending on Sept. 30, 2002, were unable to meet financial obligations in connection with breeding, boarding, raising, training, or selling horses; c) who were unable to obtain sufficient credit elsewhere (within the meaning of Sec. 321(a) of the ConAct; (4) directs the Secretary shall determine the amount of the loan based on the amount losses suffered by a breeder but a loan may not exceed \$500,000; (5) directs the Secretary shall determine the duration of the loan but any loan may not exceed 15 years; (6) establishes the interest rate shall be at a rate prescribed by Sec. 324(b)(1) of the ConAct; (7) directs the Secretary

shall take a security interest in the loan; (8) establishes that a breeder must submit a loan application by Sept. 30, 200; (9) directs the Secretary shall carry out this section using funds made available for the emergency loan program under subtitle C of the ConAct; and (10) establishes the authority for this loan program expires on Sept. 30, 2003. (Sec. 516)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(17) Evaluations of Direct and Guaranteed Loan Programs.

The House bill (1) requires the Secretary to conduct two studies of the direct and guaranteed farm ownership and operating loan programs. Each will include an examination of the number, average principal amount, and delinquency and default rates of loans during the period covered by the study. (2)The first study shall cover the one-year period that begins one year after enactment. The second study shall cover the one-year period that begins three years after enactment. (3)At the end of the period covered by each study, the Secretary shall submit reports to Congress that contains an evaluation of the results of the study, including an analysis of the effectiveness of the loan programs in meeting the credit needs of agricultural producers. (Sec. 517)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 531)

(18) Loan Eligibility for Borrowers with Prior Debt Forgiveness.

The House bill amends Sec. 373(b)(1) of the ConAct to authorize the Secretary to make loans to borrowers who have not received debt forgiveness on loans or loan guarantees more than two times and to guarantee loans to borrowers who have not received debt forgiveness on loans or loan guarantees more than three times. (Sec. 519)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision and provides for the Secretary to make an operating loan to a borrower who has received debt forgiveness on not more than one occasion that was directly and primarily resulting from a natural disaster as designated by the President. (Sec. 548)

(19) Allocation of Certain Funds for Socially Disadvantaged Farmers and Ranchers.

The House bill amends Sec. 355(c)(2) of the ConAct to authorize the Secretary to provide unused funds allocated for socially disadvantaged farmers and ranchers within a state to other states where there are pending loan applications for (SDA) farmers and ranchers. Any remaining unused SDA funds within a state may be reallocated to other applicants in that state. (Sec. 520)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 544)

(20) Horses Considered to Be Livestock Under the Consolidated Farm and Rural Development Act.

The House bill amends Sec. 343 of the ConAct to include horses within the meaning of livestock (Sec. 521)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(21) Temporary Suspension of Foreclosure on Certain Real Property Owned by, and Recovery of Certain Payments from, Borrowers with Shared Appreciation Arrangements.

The House bill directs the Secretary upon enactment of the bill and through Dec. 31, 2002, to suspend foreclosure on real property secured by a shared appreciation arrangement and not attempt to recover payments on the terms of any shared appreciation arrangement entered into between the Secretary and a borrower. (Sec. 522)

The Senate amendment amends Sec. 353(e)(7) to provide alternatives to repaying the recapture amount of a shared appreciation arrangement by -- (1) financing the recapture agreement; or (2) granting the Secretary an agricultural use protection and conservation easement on the secured property which is subject to the shared appreciation arrangement.

An agricultural use protection and conservation easement shall -- (1) be for all of the real security property subject to the shared appreciation arrangement in lieu of payment of the recapture amount; (2) be for a term of 25 years; (3) require that the property subject to the easement be used or conserved for agricultural or conservation purposes in accordance with sound farming and conservation practices; and (4) provide that the borrower who is financing the recapture amount may replace the financing with an agricultural use protection and conservation easement.

The amendments shall apply to a shared appreciation arrangement that -- (1) matures on or after the date of enactment; or (2) matured before the date of enactment if -- (a) the recapture was reamortized under sec. 353(e)(7) or (b)(1) the recapture amount had not been paid before the date of enactment because of circumstances beyond the control of the borrower; and (b)(2) the borrower acted in good faith in attempting to repay the recapture amount. (Sec. 531)

The Conference substitute provides that the Secretary may modify a recapture loan on which a payment has become delinquent by using loan servicing tools if the default was beyond the control of the borrower and the borrower acted in good faith in attempting to repay the recapture loan. A reamortized loan may not exceed 25 years from the date of the original amortization agreement or provide for reducing the outstanding principal or unpaid interest due on the loan.

The Managers expect the Secretary to review USDA appeal policies regarding appraisals used for shared appreciation agreements. The Managers expect the Secretary to establish policies that will result in the use of the most accurate appraisal of assets, including the use of independent appraisals provided on appeal by the borrower that are consistent with Federal appraisal standards.

(22) Authority to Make Business and Industry Guaranteed Loans for Farmer-owned Projects that Add Value to or Process Agricultural Products.

The House bill amends Sec. 310B(a)(1) by expanding the Secretary's loan making authority in the business and industry loan program to larger than rural communities if a majority of the project involved is owned by individuals who reside and have farming operations in rural communities and the project adds value to or processes agricultural commodities. (Sec. 523)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(23) Direct Loans

The Senate amendment amends Sec. 302(b)(1) to authorize the Secretary to make direct farm ownership loans to farmers and ranchers who have “participated in the business operations of” a farm or ranch for not less than three years. (Sec. 501)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 501)

The Managers are aware of the limiting impact of the requirement for 3 years of operating experience on the eligibility of qualified beginning farmers and ranchers for farm ownership loans. The Managers intend for the Department to examine potential borrowers comprehensively in terms of their participation in the business operations of a farm or ranch, whether or not the potential borrower was the primary or senior operator. In making these determinations, the Department should ensure the borrower fully meets the training and experience requirement of section 302(a). The Department should also place considerable weight on whether the borrower has enrolled and will successfully complete the borrower training program.

(24) Financing of Bridge Loans.

The Senate amendment amends Sec. 303(a)(1) to add a new purpose authorizing the refinancing of short-term temporary bridge loans made by a commercial or cooperative lender to a beginning farmer or rancher for the acquisition of a farm or ranch if- the Secretary approved an application for a direct farm ownership loan for acquisition of the land and the funds for direct farm ownership loans were not available at the time the application was approved. (Sec. 502)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to refinance bridge loans made by commercial or cooperative lenders to borrowers who have a direct ownership loan approved and for which funds are available. (Sec. 502)

(25) Limitation on Amount of Farm Ownership Loans.

The Senate amendment amends Sec. 305(a) to limit the unpaid indebtedness of any borrower to the lesser of – (1) the value of the farm or other security; or (2) in the case of a direct loan to a beginning farmer or rancher \$250,000 (adjusted for inflation) or \$200,000 to other farmers or ranchers; or in the case of a guaranteed loan, \$700,000 (adjusted for inflation and reduced by the amount of any unpaid indebtedness on guaranteed operating loans of the borrower). (Sec. 503)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(26) Joint Financing Arrangements.

The Senate amendment amends Sec. 307(a)(3)(D) to require the Secretary to charge a rate of interest to beginning farmers or ranchers that is 50 basis points less than the rate charged to other farmers and ranchers on a direct loan that is part of a joint financing arrangement. (Sec. 504)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(27) Guarantee Percentage for Beginning Farmers and Ranchers.

The Senate amendment amends Sec. 305(h)(6) to require the Secretary to guarantee 95 percent of a farm ownership loan to a beginning farmer or rancher participating in the down payment loan program or an operating loan to a beginning farmer or rancher who is participating in the down payment loan program during the period the borrower has an outstanding direct farm ownership loan. (Sec. 505)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(28) Guarantee of Loans Made Under State Beginning Farmer or Rancher Programs.

The Senate amendment amends Sec. 309 by adding a new subsection to authorize the Secretary to guarantee loans made under a state beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond pursuant to the federal tax code. (Sec. 506)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 504)

(29) Down Payment Loan Program.

The Senate amendment amends Sec. 310E (b)(1) to increase the principal amount of the down payment loan to be equal to 40 percent of the purchase price of the land acquisition. (Sec. 507(1)(A))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 505)

The Managers are aware that on an average per dollar basis, funds used for down payment loans serve over 3 times as many borrowers as regular farm ownership loans, and thus help to stretch limited loan funds and increase new farming and ranching opportunities. The Managers encourage the Secretary to widely publicize the availability of loans under this section as amended among potentially eligible recipients of the loans, retiring farmers and ranchers, and applicants for farm ownership loans under this subtitle and to coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers. The Managers strongly encourage the Secretary to establish performance goals for each state with a significant volume of real estate loans under this subtitle, with a goal of attaining down payment loan volumes consistent with the loan reservation percentage for down payment loans.

(30) Beginning Farmer and Rancher Contract Land Sales Program.

The Senate amendment adds a new Sec. 310F to the ConAct to require the Secretary to carry out a pilot program by Oct. 1, 2002, in at least 10 geographically dispersed states. The Secretary is required to guarantee at least five loans per state in each of the fiscal years 2003 through 2006 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets the applicable underwriting standards and a commercial lending institution agrees to serve as escrow agent. The Secretary shall start the program on making a determination that guarantees of contract land sales present a risk comparable to the risk presented in the case of guarantees to commercial lenders. (Sec. 508)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment

requiring a pilot program in not fewer than 5 states to guarantee loans made by a private seller to a beginning farmer or rancher on a contract land sale basis commencing once the Secretary makes a determination and authorizing the program through 2007 if it is carried out. (Sec. 506)

The Managers are aware that contract land sales are prevalent in many states and encourage the Secretary to create a pilot program for guaranteeing the financing of such contract land sales. The Managers intend for the Secretary to approve any loan guarantee under this pilot program using its normal underwriting criteria. The Managers envision that land contracts between the seller and buyer will contain a side escrow agreement that outlines the duties and responsibilities of the escrow agent.

(31) Direct Loans.

The Senate amendment amends Sec. 311(c)(1)(A) to delete the requirement that a direct loan may not be made to a farmer or rancher who has operated a farm or ranch for five years or more. (Sec. 511)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 511)

(32) Amount of Guarantee of Loans for Tribal Farm Operations; Waiver of Limitations for Tribal Operations and Other Operations.

The Senate amendment adds a new paragraph (7) to Sec. 309(h) requiring the Secretary to guarantee 95 percent of operating loans made to a farmer or rancher who is a member of an Indian tribe whose farm or ranch is within an Indian reservation. (Sec. 512(a))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to guarantee 95% of operating loans made to any farmer or rancher whose operation is subject to the jurisdiction of an Indian tribe. (Sec. 503)

(33) Debt Settlement

The Senate amendment amends Sec. 331(b)(4) by deleting the provision that the Secretary may not release a borrower from a debt obligation on more favorable terms than that recommended by the county committee under Sec. 332. Note: Sec. 332 was repealed by the 1994 USDA reorganization act. (Sec. 522)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the role of local or area Farm Service Agency committees in debt settlement to consultation only regarding a potential debt settlement agreement. (Sec. 533)

(34) Interest Rate Options for Loans in Servicing

The Senate amendment amends Sec. 331B to require the Secretary, when restructuring a farmer program loan, to charge the lowest of (1) the rate of the original loan; (2) the rate being charged when the borrower applies for restructuring the loan; or (3) the rate being charged when the borrower restructures the loan. (Sec. 524)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 535)

(35) Inventory Property.

The Senate amendment amends Sec. 335(c) dealing with the sale of inventory property by -- (1) providing a greater number of days that the property must be held by the Secretary and offered for sale to beginning farmers and ranchers; (2) authorizing the Secretary to bundle or parcel real estate in such ways as to maximize the sale of such real estate to beginning farmers and ranchers; (3) authorizing the Secretary to sell farm real estate that has been acquired and leased before April 4, 1996, to beginning farmers and ranchers within 60 days of the expiration of the lease arrangements; and (4) authorizing the Secretary, for purposes of farmland preservation and in consultation with the State Conservationist, to sell or grant easements, restrictions or development rights to states, political subdivisions within states or private nonprofit organizations of real estate held in inventory. (Sec. 527)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the period of time inventory property must be offered to beginning farmers and ranchers and to maximize the purchase of inventory property by combining or dividing parcels of property as appropriate. (Sec. 538)

(36) Definitions.

The Senate amendment amends Sec. 343(a)(11)(F) to replace the 25 percent limitation on ownership of the median ownership acreage within a county for purposes of determining a beginning farmer or rancher with a 30 percent acreage limitation. (Sec. 528(a))

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision. (Sec. 540)

(37) Waiver of Borrower Training Certification Requirement.

The Senate amendment amends Sec. 359(f) by authorizing the Secretary to waive the educational training requirements of Sec. 359 if the Secretary determines that the borrower demonstrates adequate knowledge in financial and farm management. The Secretary shall establish standards for this waiver that is implemented consistently in all counties. (Sec. 532)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 545)

The Managers are aware that waivers have not always been applied consistently and are concerned that in many areas waivers are exceptionally high, exceeding the 50% level. The Managers intend for the Secretary to issue clear and transparent criteria for waivers as quickly after enactment as possible and to re-assert the importance of borrower training to the success of borrowers and the effectiveness of the direct lending programs.

(38) Repeal of Burdensome Approval Requirements.

The Senate amendment amends Sec. 3.1(11)(B) to delete a provision that restricts without prior approval the loan participation activities of a bank for cooperatives in the lending territory of a Farm Credit Bank or association. The Senate amendment also amends Sec. 4.18A to make conforming changes to loan participation activities of banks for cooperatives and FCS institutions that operate under separate titles of the Farm Credit

Act. (Sec. 541)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 551)

The Managers understand that although this provision eliminates certain territorial concurrence requirements on Farm Credit System lenders so that lenders may participate in loan syndications or other multiple-lender arrangements for “similar entity” loans originated in other Farm Credit System geographic territories without seeking the permission of the Farm Credit System lender in that territory. Current law requires System institutions to obtain permission from one another when participating in similar entity transactions in which a commercial bank originates the loan and then sells the loan to a group of lenders (including the System institution). The change eliminates these requirements only as they pertain to similar entity loans that the System does not originate. Territorial concurrence for loans other than similar entity loans are not affected by this change. The Managers are expressing no opinion with this provision on pending litigation regarding participation regulations issued by the Farm Credit Administration on April 25, 2000.

(39) Banks for Cooperatives.

The Senate amendment amends Sec. 3.7(b) of the Farm Credit Act to replace the words “farm supplies” with “agricultural supplies” and to add a definition of an agricultural supply to include farm supply, agriculture-related processing equipment, agriculture-related machinery and other capital goods related to the storage or handling of agricultural commodities or products. (Sec. 542)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec.552)

(40) Insurance Corporation Premiums.

The Senate amendment amends Sec. 5.55 of the Farm Credit Act to include government sponsored enterprise-guaranteed loans or credits and establishes the rate at which these loans or credits in accrual or non-accrual status are used to fund the Insurance Fund. (Sec. 543)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and makes it applicable to calendar year 2002. (Sec. 553)

(41) Board of Directors of the Federal Agricultural Mortgage Corporation.

The Senate amendment amends Sec. 8.2(b) to increase the board to 17 members. The two new members of the board shall be elected by Class A (commercial banks and other financial institutions) and Class B (Farm Credit System institutions) stockholders, and the two new members shall be the chief executive officer and another executive officer of Farmer Mac. The Senate amendment also amends Sec. 8.2(b)(9) to provide for the election of the chairperson from among the board members instead of by appointment by the President. (Sec. 544)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(42) Technical Amendments.

See Sec. 505 of the House bill

The Senate amendment strikes references to Sec. 332 and corrects the reference to the “Robert T. Stafford Disaster Relief and Emergency Assistance Act”. (Sec. 552)

The Conference substitute adopts the Senate provisions. (Sec. 561)

(43) Effective Date.

The Senate amendment makes for the amendments made by this title, except for subsection (b) of this section and section 543(b), take effect on Oct. 1, 2002. (Sec. 553)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE VI— RURAL DEVELOPMENT

(1) Funding for Rural Local Television Broadcast Signal Loan Guarantees

The House bill amends the Launching Our Communities’ Access to Local Television Act of 2000 to provide \$200 million for loan guarantees for fiscal years 2002-2006 without fiscal year limitation. (Section 601)

The Senate amendment contain no comparable provision

The Conference substitute adopts the House provision with an amendment to provide \$80 million for loan guarantees from the date of enactment through December 31, 2006, without fiscal year limitation. (Section 6404)

It is the view of the Managers that funding dedicated to providing access to signals of local television stations should be made available by the Secretary for rural broadband deployment either upon expiration of the LOCAL TV Act on December 31, 2006, or when the RUS Administrator certifies that the goals of the program have already been met.

(2) Expanded Eligibility for Value-Added Agricultural Product Market Development Grants

The House bill amends the Agricultural Risk Protection Act of 2000 to allow \$60 million (\$50 million plus \$10 million from Sec. 943) to be used for value-added grants for each of the fiscal years 2002-2011. This section is designed to increase the participation in the Value-Added Agricultural Products Market Development Grants by allowing broader standards of eligibility for this specific grant category only so that public bodies and trade association can compete along with non-profit institutions and universities for grants designed to develop value-added products for foreign markets. Extends the current program with increased mandatory spending. (Section 602)

The Senate amendment amends ARPA, Section 231, to spend \$75 million each year 2002-2006. Eligible independent producers and nonprofit entities may receive grants with a priority given to proposals requesting less than \$200,000. Defines value added as undergoing a change in the physical state or produced in a manner that enhances its value to consumers. No less than 5% of the funding shall be used to assist producers of certified organic agricultural products. The Senate amendment provides 7.5% of the \$75 million per year be allocated to the established Agricultural Marketing Resource Center authorized in ARPA. (Section 606)

The Conference substitute adopts the Senate provision with an amendment to

make technical corrections, expand eligibility, strike the priority designations and reserve, and modify funding for the established innovation center. This provision provides \$40 million each fiscal year 2002 through 2007. Of this amount, five percent of the funds will be used for the Agricultural Marketing Resource Center. (Section 6401)

The Managers intend that the Department, in administering the program, will seek to fund a broad diversity of projects that help increase agricultural producers' share of the food and agricultural system profit, including projects likely to increase the profitability and viability of small and medium-sized farms and ranches. The Managers intend for the Department to consider a project's potential for creating self-employment opportunities in farming and ranching and the likelihood that the project will contribute to conserving and enhancing the quality of land, water and other natural resources.

When making these grants, the Managers expect the Secretary to consider applications from a variety of agricultural sectors, such as renewable energy, wineries, high value products from major crops, agri-marketing ventures, and community supported agricultural projects. The inclusion of renewable energy includes farm or ranch based wind, solar, hydrogen, and other renewable energy.

An exception from the normal rural area requirement is made for majority controlled producer based business ventures. It is the Managers intent that the Department award grants, to the maximum extent practicable, to projects located in rural areas. However, state rules and regulations and other circumstances may hinder some worthy value-added agricultural projects from meeting the Department's specific definition of "rural". One such example is wineries in certain areas. In this instance, the Managers expect the Department to consider the importance and value of the project to area agriculture producers who will be the ultimate beneficiaries of the project, including the consistency of the project with the intent of the program.

(3) Agriculture Innovation Center Demonstration Program

The House bill provides that the Secretary shall make grants to establish centers to provide producers with technical assistance, marketing, and development assistance for value-added agricultural businesses. The Secretary shall use not less than \$5 million for fiscal year 2002 and not less than \$10 million for fiscal years 2003 and 2004. This money is part of the \$50 million being used for Section 602 activities. The Secretary shall use \$300,000 of the funds made available each year to support research at a university on the effects of value-added projects on producers and commodity markets. The Secretary shall submit a report to the House and Senate Agriculture Committees on the effectiveness of this demonstration program. (Section 603)

The Senate amendment provides 7.5% of the \$75 million per year that is allocated to the established Agricultural Marketing Resource Center authorized in ARPA. (Section 606)

The Conference substitute adopts the House provision with an amendment that the Secretary shall use not less than \$3 million for fiscal year 2002 and not less than \$6 million for fiscal years 2003 and 2004. (Section 6402)

(4) Funding of Community Water Assistance Grant Program

The House bill directs the Secretary to use \$30 million for each of the fiscal years 2002-2011 to fund drinking water assistance grants. Extends current program and makes it mandatory spending. Strikes the word "emergency" in the subtitle.

Increases funding by another \$45 million per year, for a total of \$75 million per year. (Section 604 and 943)

The Senate amendment extends authority of the program through 2006 with no changes.

See also section 603 of the Senate amendment, which fully funds existing backlog of applications for this grant program and other rural development loan and grant programs. (Section 629)

The Conference substitute adopts the House provision with an amendment to make rural areas and small communities eligible for grants in cases where a significant decline in quantity and quality of water is imminent, in addition to where there is an emergency. No less than 3 percent but no more than 5 percent of appropriated funds shall be used for these grants. (Section 6009)

The Managers are acutely aware of the ongoing needs of rural communities in maintaining water systems to provide adequate and safe drinking water for its residents. The Managers are particularly concerned about current drought conditions in many areas of the United States and its dire impact on a rural area's drinking water needs. Many areas are faced not only with the lack of potable water but with the lack of any water at all. For this reason, the provision allowing for potable water includes the delivery of bottled water where necessary.

The Managers expect this provision to provide USDA, Rural Development with a flexible program with a certainty of funds to meet the emergency and imminent drinking water needs of rural areas. The Secretary should ensure that communities eligible for assistance under this program receive immediate attention.

(5) Loan Guarantees for the Financing of the Purchase of Renewable Energy Systems

The House bill provides that the Secretary may provide to persons or individuals a loan guarantee under Section 4 of the Rural Electrification Act to finance the purchase of a renewable energy system, including a wind energy system and anaerobic digesters for the purpose of energy generation. (Section 605)

The Senate amendment provides that the Secretary, in addition to making loans and loan guarantees under other laws, shall make low interest rate loans (4%), loan guarantees, and grants to be used by producers for the purchase of renewable energy systems and energy efficiency improvements. Provides \$33 million per year for such purposes. (Only those producing agricultural products with a market value of less than \$1,000,000 in the preceding year are eligible.) (Section 902)

The Conference substitute deletes the House provision.

(6) Loans and Loan Guarantees for Renewable Energy Systems

The House bill amends Section 310B of the ConAct by inserting "and other renewable energy systems including wind energy systems and anaerobic digesters for the purpose of energy generation". (Section 606)

The Senate amendment provides that the Secretary, acting through the Rural Business Cooperative Service shall establish a program to make loans, loan guarantees (in addition to loans and loan guarantees under other laws) and competitively award grants to cooperatives or other rural business ventures to enable producers to own and market sources of renewable energy and increase the quantity of electricity available from renewable energy sources. Loans would be used to provide capital for start-up costs

associated with rural business ventures or the promotion of the aggregation of renewable electric energy sources. Grants would be used to develop business plans or perform feasibility studies. (much like existing Value-Added Grants). (Section 902)

The Conference substitute adopts the House provision. (Section 6013)

(7) Reauthorization of Programs through 2011

The House amendment reauthorizes current programs through 2011. Those programs are Rural Business Opportunity Grants (Sec. 607), Grants for Water Systems for Rural and Native Villages in Alaska (Sec. 608), Rural Cooperative Development Grants (Sec. 609), National Reserve Account for Rural Development Trust Fund (Sec. 610), and the Rural Venture Capital Demonstration Program (Sec. 611). (Sections 607, 608, 609, 610, and 611)

The Senate amendment reauthorizes Rural Business Opportunity Grants (same as House Sec. 607) except that authorization is increased from \$7.5 million to \$15 million a year, and authority runs through 2006.

Reauthorizes Grants for Water Systems for Rural and Native Villages in Alaska (same as House Sec. 608) except that authority runs through 2006.

Reauthorizes Rural Cooperative Development Grants (same as House Sec. 609) except that it prohibits the Secretary from requiring a non-federal share of more than 5% for 1994 institutions, and authority runs through 2006.

The Senate amendment contains no comparable provisions on the National Reserve Account for Rural Development Trust Fund or the Rural Venture Capital Demonstration Program. (Section 622, 631, and 633)

The Conference substitute adopts the Senate provision on Rural Business Opportunity Grants. (Section 6003)

The Conference substitute adopts the House provision on Grants for Water Systems for Rural and Native Villages in Alaska. (Section 6011)

The Conference substitute adopts the Senate provision on Rural Cooperative Development Grants. (Section 6015)

The Conference substitute adopts the House provisions with an amendment to repeal the National Reserve Account for Rural Development Trust Fund and the Rural Venture Capital Demonstration Program. (Section 6026)

(8) Increase in Limit on Certain Loans for Rural Development

The House bill increases the loan limit of the Business and Industry lending program authorized by Sec. 310B of the ConAct from \$25 million to \$100 million. (Section 612)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that the Secretary may guarantee a loan that may not exceed \$40 million for a project that is located in a rural area and provides for the value-added processing of agricultural commodities. The Secretary may not delegate the approval authority. (Section 6017)

(9) Pilot Program for Rural Development Strategic Plans and Implementation

The House bill provides that the Secretary shall select states to implement rural development strategic plans. This is a new program that provides mandatory spending of

\$2 million in grants for each fiscal year 2002-2011 (plus another 2/13 or approximately \$6.9 million from Sec. 943.).

Provides mandatory spending of \$13 million for grants to implement the plans for each fiscal year 2002-2011 (plus 11/13 or approximately \$38 million from Sec. 943.). The Strategic Planning Initiative and Implementation provision authorizes a matching grant pilot program of \$2 million (plus \$6.9 million) per year to entities for regional, collaborative rural development strategic plans in those states that are chosen by the Secretary. Community-based and grassroots organizations' support and participation are critically important to successful planning. The matching grant requirement will help ensure that there is a commitment at the local level for the planning process. The provision allows the Secretary to require up to a 50% matching grant. This requirement is not intended to serve as a barrier to limited resource communities in fully participating in the program. The Secretary should require matching grants commensurate with a community's ability to pay, even to the point of only requiring a nominal amount in order to ensure the broadest participation.

In developing a regional development plan it is imperative that local specialists representing many varied areas of expertise be included. The Secretary should give priority to grant applicants whose proposals include the broadest coalitions of regional and local organizations – both public and private. Entities eligible for matching grants include but are not limited to Councils of Government, Area Development Districts, Economic Development Districts, Local Development Districts, Planning and Development Districts, Regional Planning Commissions and Regional Councils of Government. (Section 613)

The Senate amendment spends \$5 million in 2002 for planning grants to conditionally approved program entities under Sec. 385C(d). Spends \$2 million in 2002 for private technical assistance under Sec. 358C(h).

Amends the ConAct to create a Program that will provide rural communities with technical and financial assistance to develop and implement community development strategies. The Secretary shall approve a program entity to receive grants if the entity meets certain criteria, and once approved, the entity shall establish an endowment fund. The Secretary may award supplemental grants, not to exceed \$100,000, to approved entities to assist in developing a strategy (Sec. 385C(d) see above). To be eligible for an endowment grant, approved entities shall develop and obtain the approval of the Secretary for a comprehensive strategy. An approved entity shall receive final approval if the strategy meets certain requirements, and the Secretary may make grants, not to exceed \$6 million, to these entities to implement the strategy (Sec. 385C(f) see above). Approved entities must provide a 50% match of the amount received in grant funds, except in certain cases where it is determined that a lower non-federal share is allowable to invest and then use the funds for infrastructure improvements and/or investments in enterprises that will improve the area. Grants may be made, not to exceed \$100,000, to qualified intermediaries to provide technical assistance and capacity building to approved entities (Sec. 358C(h) see above). Authorizes such sums as are necessary for fiscal years 2004-2006. (Section 604)

The Conference substitute adopts the House provision with an amendment to establish a National Board on Rural America that will make planning grants and innovation grants to certified Regional Investment Boards. A National Conference on

Rural America will be held to address challenges in rural areas. A total of \$100 million is available to carry out this section. (Section 6030)

For over 40 years rural policy scholars and analysts have recognized the absolute necessity of a more integrated, comprehensive rural policy framework. In establishing this framework, Section 6030, will require the active participation of all Federal agencies, rural units of local government, development organizations, community-based organizations, rural nongovernmental organization, and the private and philanthropic sectors. While a collaborative effort and comprehensive planning is essential for success of any endeavor, no plan can succeed without resources for its implementation and completion.

This program is designed to use Federal funds as a catalyst to bring together the various sectors from rural areas in order to make maximum use of Federal, state and local resources.

The Managers intend that the appropriate population of an eligible area is between 50,000 and 150,000; however, the Managers expect the regional and national boards to make exceptions as needed. The target population does not include a metropolitan area which may be participating in a regional plan.

The Managers understand the diversity of governance, governmental entities and governmental structure in the 50 states. In composing the regional boards, the Managers expect that it will include the broadest possible collection of public and private entities representative of the area or region of the eligible area.

In appointing the National Board on Rural America, the Managers expect the Secretary to carefully consider individuals recommended by the Chairman and Ranking Members of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry, the Speaker of the House of Representatives, and the Majority Leader of the Senate. The Secretary is encouraged to consider seven recommendations from the House of Representatives and seven recommendations from the Senate.

(10) Grants to Nonprofit Organizations to Finance the Construction, Refurbishing, and Servicing of Individually-Owned Household Water Well Systems in Rural Areas for Individuals with Low or Moderate Incomes

The House bill amends the water and wastewater authorities under the ConAct to authorize the Secretary to make grants and loans to provide individual residential water wells. (Section 614)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment limiting loans to \$8,000 per water well system and authorizing the program at \$10 million per fiscal year. (Section 6012)

(11) National Rural Development Partnership

The House bill adds a new section to Subtitle E of the ConAct to establish a National Rural Development Partnership composed of the Coordinating Committee and the state rural development councils. (Section 615)

The Senate amendment amends Subtitle D of the ConAct to add the NRDP composed of the Coordinating Committee and the state rural development councils. (Section 611)

The Conference substitute adopts the Senate provision with an amendment clarifying the Senate language and authorizing up to \$10 million per fiscal year. (Section 6021)

The Conference substitute includes provisions which are intended to ensure the accountability of State Rural Development Councils (SRDCs) to the rural residents they are expected to serve and to agencies which provide financial support for their operations. The Managers specifically intend that all SRDCs will continue to abide by or come into compliance with the structural and process guiding principles of this section. The Managers also intend that USDA/Rural Development State Directors and other employees of USDA and other Federal agencies with rural responsibilities will fully participate as voting members in the governance and operations of SRDCs on an equal basis with other SRDC members.

The Managers expect the National Rural Development Coordinating Committee to make significant progress toward the goal of better coordinating the rural policies and programs of Federal agencies and developing greater collaboration between the Federal government, the States, and others with resources to invest in rural areas.

The Partnership has depended on voluntary contributions of discretionary funds from multiple Federal agencies to support its activities. This system has not met all of the needs of the SRDC. Accordingly, the Conference substitute contains an authorization for annual appropriations of \$10 million. The Managers encourage Federal agencies, whether or not they have contributed to the Partnership in the past, to financially support collaborative initiatives managed by SRDCs. The Managers specifically intend that all Federal funds that are provided to the SRDCs will be used solely for SRDC operations and projects and that the use of these funds will be controlled exclusively by the SRDCs' governing boards. The Managers also strongly urge SRDCs to identify additional sources of non-Federal funds to support their activities.

SRDCs currently operate in 40 States. The Managers encourage the Secretary to work with the remaining 10 States to establish SRDCs.

(12) Eligibility of Rural Empowerment Zones, Rural Enterprise Communities, and Champion Communities for Direct and Guaranteed Loans for Essential Community Facilities

The House bill amends Sec. 306(a) of the ConAct to authorize the Secretary to make or insure loans to communities designated as rural empowerment zones, rural enterprise communities or as champion communities to install or improve essential community facilities. (Section 616)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike "champion communities". (Section 6001)

The Managers intend that this provision affect only two communities – Lewiston, Maine, and Eagle Pass, Texas. These communities were designated rural Enterprise Communities in 1999, and this amendment would make them eligible for participation in essential community facility programs only.

(13) Grants to Train Farm Workers in New Technologies and to Train Farm Workers in Specialized Skills Necessary for Higher Value Crops

The House bill provides that the Secretary may make grants to an entity to train farm workers to use new technologies and develop specialized skills for agricultural development. Authorizes no more than \$10 million be appropriated to the Secretary for fiscal years 2002-2011 to make such grants. (Section 617)

The Senate amendment is the same except it authorizes grants through 2006. (Section 646)

The Conference substitute adopts the House provision with an amendment making technical changes and adding “farmer cooperatives” as an eligible entity. (Section 6025)

(14) Loan Guarantees for the Purchase of Stock in a Farmer Cooperative Seeking to Modernize or Expand

The House bill amends Sec. 310B of the ConAct to provide loan guarantees for individual farmers to purchase capital stock of a farmer cooperative established for an agricultural purpose. (Section 618)

See also Sec. 523 (Credit Title) of the House bill, which contains additional modifications to the B&I Loan Program to provide for guaranteed loans to projects in areas other than rural communities, in the case of insured loans, if a majority of the project involved is owned by individuals who reside and have farming operations in rural communities, and the project adds value to or processes agricultural commodities.

The Senate amendment amends Sec. 310B of the ConAct to provide loan guarantees to farmers, ranchers or cooperatives to purchase start-up capital stock for expanding or creating an agriculture coop. The Secretary may guarantee a loan to a producer to join a coop in order to sell products he produces. Farmer coops eligible for B&I loans shall be eligible to refinance existing loans. The Secretary may establish appraisal standards for the Business and Industry Loan Program. The Secretary may assess a one-time fee for a loan guarantee, not to exceed 2% of the guaranteed principal portion of the loan. (Section 635)

The Conference substitute adopts the Senate provision with an amendment to provide loan guarantees to purchase capital stock. The Secretary may make or guarantee a loan to a cooperative organization headquartered in a metropolitan area if the loan is used for a project in a rural area or meets the criteria of a cooperative generally. A cooperative organization shall be eligible to refinance an existing loan if certain requirements are met. The Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility; if the primary benefit of the guarantee provides employment to rural areas; and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year. The Secretary may consider the value of a properly appraised brand name, patent, or trademark of the cooperative in determining whether the cooperative organization is eligible for a loan guarantee. The Secretary may guarantee a loan that may not exceed \$40 million for a project that is located in a rural area and provides for the value-added processing of agricultural commodities and the Secretary may not delegate the approval authority for such a guarantee. (Section 6017)

There is a 2% limit on an initial fee. That limit does not prevent annual fees which may be needed to preserve an appropriate program level.

The Managers expect the Secretary, to consider on a priority basis, Business and

Industry loan and loan guarantee program applications from eligible marketing cooperatives of agriculture producers for the purpose of constructing peanut storage facilities and for value-added agriculture and renewable energy. In regard to paragraphs (6) and (8), the 10 percent limit in each of those paragraphs is not a goal to be worked toward, but a limit. The Managers recognize that the loans or loan guarantees provided may be less than that level.

(15) Intangible Assets and Subordinated Unsecured Debt Required to be Considered in Determining Eligibility of Farmer-Owned Cooperative for Business and Industry Guaranteed Loan

The House bill amends Sec. 310B of the ConAct for this purpose. In considering applications for a loan guarantee from an agricultural cooperative, the Rural Business-Cooperative Service may consider the value of intangible assets such as trademarks, patents, licenses, and brands subject to appraisal, when evaluating the eligibility of an agricultural cooperative for loan guarantees. The same consideration may be given to unsecured subordinated debt, which may be viewed as the equivalent of equity in the cooperative. Both intangible assets and unsecured subordinated debt may be considered in determining the viability of a cooperative's balance sheet. (Section 619)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that the Secretary may consider the value of a properly appraised brand name, patent, or trademark of a cooperative. (Section 6017)

(16) Ban on Limiting Eligibility of Farmer Cooperative for Business and Industry Loan Guarantee Based on Population of Area in which Cooperative is Located

The House bill amends the ConAct so that in determining whether a cooperative organization owned by farmers is eligible for a guaranteed loan, the Secretary shall not apply any lending restrictions based on population to the area in which the cooperative is located. (Section 620)

The Senate amendment provides for that loans can be made to coops headquartered in a metropolitan area if the project is in a rural area. (Section 635)

The Conference substitute adopts the House provision with an amendment that the Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility; if the primary benefit of the guarantee provides employment to rural areas; and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year. (Section 6017)

(17) Rural Water and Waste Facility Grants

The House bill removes the appropriation authorization from the rural water and waste water program under the ConAct, in effect providing such sums as may be necessary. (Section 621)

The Senate amendment increases current law from \$590 million in total spending per year to a new authorization of \$1.5 billion per year. The Secretary may make grants to entities to capitalize revolving funds to provide loans to eligible borrowers to finance up to \$100,000 of the costs of predevelopment, equipment, replacement, small systems

extensions and other small water and wastewater projects. Authorizes appropriations of \$30 million each fiscal year 2002-2006 for this subparagraph. (Section 621)

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary for the rural water and waste water program. (Section 6002)

(18) Rural Water Circuit Rider Program

The House bill establishes permanently under the ConAct a national rural water circuit rider program to provide technical expertise to existing and start-up rural water systems throughout the country. Provides an authorization of appropriations of \$15 million per year (Section 622)

The Senate amendment is nearly identical to House bill except for (B) that contains language that says the new program “shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading RCAP for 2002.” Also, the authorization for \$15 million is only through 2006. (Section 623)

The Conference substitute adopts the Senate provision with an amendment making the program permanent. (Section 6005)

(19) Rural Water Grassroots Source Water Protection Program

The House bill establishes a national source water protection program within the U.S. Department of Agriculture that will enable rural water associations to provide better services in the implementation of wellhead and ground water protection programs. The program is authorized at an annual appropriation of \$5 million. (Section 623)

The Senate amendment contains no comparable provision in rural development title, but see conservation title.

The Conference substitute adopts the Senate provision. (Section 217 (1240Q))

(20) National Rural Cooperative and Business Equity Fund

The Senate amendment amends the ConAct to establish the Fund, governed by a board of directors, to revitalize rural communities and sustain rural business development by providing federal funds and credit enhancements to a private equity fund in order to encourage investments by authorized private investors. The Secretary shall make \$150 million available (subject to appropriations) for the fund which is to be matched by the investors; guarantee 50% of each investment up to \$300 million made by a Fund investor; guarantee 100% of the repayment of principal and accrued interest on approved debentures issued by the Fund, not to exceed \$500 million. No single investment shall exceed the greater of \$2 million or 7% of the Fund. The total investment made in a company may not exceed 20% of the total investment in the project. Authorizes such sums as are necessary. (Senate 601)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) Rural Business Investment Program

The Senate amendment spends \$70 million in 2002 for subsidies and \$50 million in 2002 for grants.

Adds a new subtitle H to the ConAct that establishes a Rural Business Investment Program (RBIP) administered by the Secretary that, among other things, promotes economic development and the creation of wealth and job opportunities in rural areas.

New Sec. 384A. defines various terms used by the Secretary to implement the RBIP, including the term Rural Business Investment Company (RBIC).

New Sec. 384B. sets out the purposes of the RBIP to promote economic development and to establish a developmental venture capital program that addresses the unmet investment needs of small enterprises. The Secretary is authorized to enter into participation agreements with RBICs, guarantee RBIC debentures and make grants to RBICs.

New Sec. 384C. establishes the RBIP.

New Sec. 384D provides for the eligibility of companies to apply to participate in the RBIP if 1) the company is newly formed for-profit or a subsidiary of such company; 2) the company has a management team experienced in financing community development; and 3) the company will invest in enterprises that will create wealth and job opportunities.

Applications to participate must contain a business plan, information about management's experience in financing rural development, a description of how the company intends to work with community organizations to meet unmet capital needs, a proposal on how the company will use grant funds, an estimate of cash to in-kind contributions the company will have in binding commitments, a description of the evaluation standards the company will use to determine whether or not it is meeting the RBIP's purposes, information regarding the financial strength of the parent company or its subsidiary, and any other information the Secretary requires.

The Secretary must issue within 90 days a status report about an application to participate and must approve or disapprove the application within a reasonable time and, on approval, issue a license for the operation of the applicant. If disapproved, the Secretary must notify the applicant in writing.

The Secretary is required to make determinations about the applicant when reviewing and processing the application, including finding that the management personnel of the applicant are qualified to carry out the RBIP and generally have a good business reputation.

The Secretary shall approve and designate the applicant as a RBIC if it is determined that the applicant qualifies, the area in which the RBIC will operate is acceptable and the applicant enters into a participation agreement. The applicant has a capital requirement of at least \$2.5 million.

New Sec. 384E provides that the Secretary is authorized to guarantee, using the full faith and credit of the United States, the timely payment of principal and interest on debentures issued by the RBIC. Debenture guarantees may not exceed 15 years. Such guarantees may not exceed the lesser of 300 percent of the private capital of the RBIC or \$105 million, and may provide for use of discounted debentures.

New Sec. 384F authorizes the Secretary to issue trust certificates that represent partial or full ownership of RBIC debentures. The Secretary may pool RBIC debentures on which the certificates are based and may guarantee the timely payment of principal and interest on the certificates. The Secretary may administer the guaranteed trust or pool to provide for prepayment of or defaults on debentures. Trust certificates are backed by the full faith and credit of the U.S.

The Secretary is required to provide for a central registration of all trust certificates and will subrogate and retain ownership rights over a debenture on which a claim is satisfied. The Secretary may maintain bank accounts and investments to facilitate the creation of trusts or pools of debentures. The Secretary may regulate brokers and dealers in RBIP trust certificates and require any person functioning as the Secretary's agent to provide a bond or evidence of insurance.

New Sec. 384G authorizes the Secretary to charge fees for the guarantee of debentures or grants, and the Secretary's agents may collect a fee for operating a trust pool. The Secretary may charge a fee to license a RBIC. The Secretary shall use the fees to cover salaries and expenses of the Secretary and are authorized for covering the costs of licensing exams.

New Sec. 384H authorizes the Secretary to make grants to RBICs over a multi-year period to be used only to provide operational assistance. RBICs must show how they will use grant funds. The amount of the grant can be up to the lesser of 10% of the private capital raise or \$1 million. NOTE: INTENT was to also limit such funds to the lesser of twice the match provided by the RBIC. The Secretary may make grants to entities other than a RBIC under the same terms as it would to an RBIC.

New Sec. 384I sets out the legal organization of RBICs, including their articles of incorporation if incorporated, and minimum levels of private capital acceptable to operate as a RBIC. The Secretary may accommodate lesser capital standards upon the showing of special circumstances and good cause. The Secretary shall ensure that the private capital is adequate for success and that at least 75 percent of the capital is invested in rural business and not more than 10% may be invested in a city of over 100,000 or its surrounding urbanized area. That the minimum amount of capital required for RBICs authorized to be issued guarantees on debentures shall be \$10,000,000 or \$5,000,000 with a determination by the Secretary regarding risk. Secretary also is required to ensure that the RBIC management is diversified and unaffiliated with the ownership of the RBIC.

New Sec. 384J provides that national banks, Federal Reserve member banks, federal savings associations, Farm Credit System (FCS) institutions and other insured banks may invest in RBICs but in no event may a lending institution make a greater than five percent investment of its capital and surplus in RBICs. In the case of a FCS institution or a combination of FCS institutions holding more than 15 percent of the voting stock in a RBIC, the RBIC may not provide financial or equity investment assistance to any entity not otherwise eligible to receive financing from the FCS.

The total invested by any of the described financial institutions shall not exceed 5% of their capital.

New Sec. 384K sets out the reporting requirements.

New Sec. 384L provides for the Secretary to direct a private sector entity to exam the books, records and operations of participating RBICs, and the Secretary may charge RBICs for the costs of such examinations.

New Sec. 384M authorizes the Secretary to use the federal district courts to enforce compliance of all provisions of the RBIP set out in rules, regulations, orders or participation agreements should the Secretary have reason to believe a RBIC is engaging in or about to engage in any act or practice that violates the RBIP. In the event of violations, a court of competent jurisdiction may issue temporary or permanent injunctions, restraining orders or other orders to prohibit further activities and may

appoint a trustee or receiver to manage the assets of a RBIC. The Secretary may act as a trustee or receiver.

New Sec. 384N authorizes the Secretary to void RBICs' participation agreements and to stop the exercise of all rights and privileges as a RBIC. A RBIC must be found to be in violation of the RBIP before the loss of such privileges.

New Sec. 384O provides that RBICs and other, associated persons involved in any activity that violates the act to be held together to the extent the associated persons authorize or otherwise bring about the violation. Any mismanagement or misconduct shall be a breach of fiduciary responsibility and unlawful. Any person associated with the RBIC that commits any unlawful act or practice, or fails in any act or practice, that would result in the RBIC suffering financial losses has breached his fiduciary responsibility. This section further provides suitability rules for officers or agents of the RBIC and makes any breach of those rules to be unlawful acts.

Sec. 384P provides procedures for removing officers or agents of a RBIC.

Sec. 384Q requires the Secretary to enter into an interagency agreement with the Small Business Administration to carry out the day-to-day management and operation of the RBIP.

Sec. 384R authorizes the Secretary to write regulations to carry out the RBIP.

Sec. 384S provides \$350 million for the guarantee of debentures and \$50 million for grants from Treasury funds not otherwise appropriated to carry out the RBIP. Such funds shall remain available until spent.

The House bill contains no comparable provision

The Conference substitute adopts the Senate provision with an amendment making clarifying changes and that the Secretary shall enter into an interagency agreement with another federal agency that has expertise in operating a program of this nature. The Conference substitute provides \$100 million to carry out this program. (Section 6029)

This program addresses the crucial problem of limited equity capital in rural America. The program allows investment companies to considerably leverage their equity resources, increasing the equity funds available in rural America by attracting capital for the program and through the leverage that the program provides. Only for profit Rural Business Investment Companies (RBIC) may apply because the profit motive and danger of loss will help minimize losses to the government. The Managers believe that a high quality management team of the applicants is crucial for success and expects that this factor will be given solid consideration.

Financial institutions may participate in the program as set forth in the program. The Managers intend that financial institution regulators including the Farm Credit Administration, the Office of the Comptroller, the Federal Reserve, state bank regulators, and other financial institution regulators continue to have the authority to impose on any financial institution that they regulate any safeguard, limitation, or condition that the regulator considers to be appropriate (including, without limitation, any investment limit that is lower than the investment limit that this section imposes on insured depository institutions). The strong expectation of the Managers is that RBICs will not normally engage in lending of a type performed by regulated financial institutions except in circumstances where such assistance is not likely to be available and where the equity investment makes such arrangements prudent given the overall risks involved.

The program is modeled after the Small Business Investment Company program,

where considerable expertise in operating the program that provides capital for equity investments has been developed. That program shares many of the same provisions with the RBIC program that is being enacted allowing day-to-day management to follow almost identical practices with a few exceptions such as those dealing with the grants program and rural targeting of investments. It is the expectation of the Managers that the Secretary enter into an agreement under the Economy Act within 60 days of enactment with that appropriate agency.

It is the expectation of the Managers that a considerable share of the rules and operating procedures for this program will be the same as the rules and operating procedures for the Small Business Investment Company program. Given that reality, it is the Manager's expectation that rules implementing this program can be proposed in a very short time period. The grant provisions are similar to the New Markets Venture Capital Program.

(22) Full Funding of Pending Rural Development Loan and Grant Applications

The Senate amendment spends a CBO estimated \$454 million in 2002 (no future spending) to close out the backlog in the following rural development programs: community facility direct loans and grants; water and waste disposal direct loans and grants; rural water or wastewater technical assistance and training grants; emergency community water assistance grants; B&I guaranteed loans; solid waste management grants. Applications in the preapplication phase are not eligible for funding under this provision. (Section 603)

The House bill contains no comparable provision

The Conference substitute adopts the Senate provision with an amendment to provide \$360 million to fund pending applications for water and waste disposal system grants and loans, with priority to water systems. (Section 6031)

(23) Enhancement of Access to Broadband in Rural Areas

The Senate amendment spends \$100 million each year 2002-2006. Amends the Rural Electrification Act. The Secretary shall make grants, loans, and loan guarantees at 4% or market rate interest to construct, improve, acquire facilities and equipment to provide broadband service to rural communities with no more than 20,000 residents. Funding will be allocated to states, and funds not obligated by April 1 will go in a national pool to be used by the Secretary to make grants, loans, and loan guarantees in any state. (Section 605)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide loans and loan guarantees for broadband service and to clarify what entities are eligible to receive a loan or loan guarantee. (Section 6103)

The Managers expect that the state government or local government or any agency, subdivision or instrumentality thereof (including consortia thereof) will be permitted to file applications during the three-month waiting period after the RUS has promulgated rules on the broadband program in order to keep their place in line for the next available round of funding.

The Managers expect the RUS to evaluate the priority status of all pending broadband applications as soon as practicable after the date of enactment. Any completed application which meets the priority criteria should be evaluated for expedited approval.

The Managers expect the Agency to determine the priority status of applications on hand at least once every quarter. In general, all other applications should be evaluated and awarded on a first come first serve basis.

The Managers are aware that in the current broadband pilot program RUS has generally used the FCC's definition of broadband services. It is the Manager's intent that this practice should continue and that is why the Manager's used the definition of broadband services that is currently being used by the FCC and the RUS. The Managers want to make clear that the purpose behind using this definition was to maintain the current high standard used by RUS in determining what a broadband service is.

However, the Managers expect the Administrator will apply a definition of broadband services to encourage new broader bandwidth technologies in rural areas and that the program will foster the development of a variety of technological applications including terrestrial and satellite wireless services. This is a critical function since this is a rapidly changing technology.

The Managers have taken no position on particular technologies and believe that it is very important for the Department not to choose among adequate technologies. The Managers expect the Secretary to participate in any FCC proceedings or Department of Commerce study of the future of broadband services and the markets for such services.

The Managers are aware that the RUS has administered a telecommunications program for over 50 years. To date there has not been a loan loss in that program. The Managers expect, that given that record, program levels will fully take that reality into account. The Managers intend for direct loans to be made at the treasury rate of interest in most circumstances.

(24) National Rural Development Information Clearinghouse

The House bill extends the National Rural Information Center Clearing-House – (7 U.S.C. 3125b(c)) through 2011. (Section 701)

The Senate amendment amends Section 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 to establish a Clearinghouse at USDA to collect and disseminate information about programs and services available to a person or entity in a rural area regarding financial, technical or other assistance. The Clearinghouse will maintain an Internet website, and the Secretary shall use not more than \$600,000 of the funds available to RHS, RUS, RBS each fiscal year to operate and maintain the Clearinghouse. (Section 607)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7101)

The Managers expect the Rural Development mission area of the Department to highlight the existence and resources of the Rural Information Center of the National Agricultural Library on its websites and in its informational materials.

(25) Multijurisdictional Regional Planning Organizations

The Senate amendment amends the ConAct to allow the Secretary to provide grants up to \$100,000 to multijurisdictional regional planning organizations to pay for costs of assisting local governments to improve infrastructure, services and business development capabilities. Authorizes appropriations for \$30 million in each year 2003-2006. A local match is required. (Section 624)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6006)

(26) Certified Nonprofit Organizations Sharing Expertise

The Senate amendment amends Sec. 306(a) of the ConAct. The Secretary shall certify nonprofit organizations (which may include an institutions of higher education) that demonstrate experience in providing technical assistance to improve infrastructure, services and business development capabilities of local governments, and make this list available to the public. Authorizes appropriations of \$20 million each fiscal year 2003-2006 to make grants to certified organizations. (Section 625)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(27) Loan Guarantees for Certain Rural Development Loans

The Senate amendment amends Sec. 306(a) to authorize the Secretary to guarantee loans made for community facilities or water and sewer systems, including loans financed by bond issuances described by Section 144(a)(12)(B)(ii) of the IR code. (NOTE: currently, projects with bonds receiving assistance under that section may not receive other government support. This section does not impact the IRS provision). Any individual or entity offering to buy these loans may receive the guarantee if the individual or entity demonstrates that person can continue the performance of the loan and can generate capital to assist borrowers of loans with additional credit needs to ensure servicing of loans.

Amends Sec. 310B. to authorize the Secretary to guarantee loans made to finance bond issues for the provision of community facilities or water and sewer systems. (Section 626)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the reference to section 142(a) of the Internal Revenue Code of 1986. (Section 6007)

The Managers intent is that this section will allow the Department to provide support for noted projects in the event the IRS code is modified to allow such support without adversely affecting tax benefits.

(28) Rural Firefighters and Emergency Personnel Grant Program

The Senate amendment spends \$10 million in 2002 and then \$30 million each year 2003-2006. Amends the ConAct to establish a grant program to provide scholarships to local government units to train firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous material and bioagents. Not less than 60% of the funds shall be used for this purpose. Grants may be used for facility improvements, equipment, operating, or establishing regional training centers. Not more than 40% may be used for the facility grants. The federal share of the facility grants shall not exceed 50%. (Section 627)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment to clarify that the Secretary shall give priority to grant applicants that provide for training within the region or locality in which the grant applicant is located. The Conference substitute provides for a funding level of \$10 million for each of fiscal years

2003 through 2007, and as a result of this lower level of overall funding for the program, reduces the \$2 million limitation for any single training center in any single year to \$750,000. (Section 6405)

The Managers expect that efforts will be made to minimize travel costs in order to maximize actual training provided. In order to minimize costs, appropriate training facilities within the area or region should be utilized whenever possible. Many firefighter and first responder training facilities, some with specialized functions such as farm safety have received USDA or FEMA assistance in the past, have excellent reputations but have significant facility needs. It is expected that the Department give a high priority to such facility needs.

(29) Tribal College and University Essential Community Facilities

The Senate amendment amends Section 306(a) of the Con Act to add a provision allowing the Secretary to make grants to tribal colleges and universities to help them develop essential community facilities in rural areas. The federal share is not to exceed 75% of the total cost of these facilities. Authorizes \$10 million a year for each of fiscal years 2003 through 2006. (Section 628)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6008)

(30) Water and Waste Facility Grants for Native American Tribes

The Senate amendment amends Section 306C of the ConAct to authorize appropriations for \$30 million in grants, \$30 million in loans, and \$20 million in grants to benefit Indian tribes each year 2002-2006. (Section 630)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6010)

(31) Rural Business Enterprise Grants

The Senate amendment amends Section 310B(c)(1) of the Con Act by creating a priority in awarding grants under this program to non-profit entities operating on tribal land in an area with a population of no more than 5,000. (Section 632)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6014)

In many rural tribal communities, tribes and tribal governments play a dominant role in the economic development of the area. As a result, unique patterns of economic development exist whereby the local economy is often composed of a single dominant employer. Because of these circumstances, many organizations located in isolated tribal communities are often unable to receive assistance from the Rural Business Enterprise Grant program. The Managers recognize the different patterns of economic development that exist in many rural tribal communities.

It is the Managers expectation that funds made available under this provision will be used to assist in the financing or development of small and emerging businesses located in communities of less than 5,000 people on tribal lands or former tribal lands without respect to revenue or employee limitations. Funds made available under this provision may only be used to create, expand or operate value-added agricultural processing facilities.

(32) Grants to Broadcasting Systems

The Senate amendment amends section 310B(f) of the ConAct by adding: \$5 million is authorized per year from 2002-2006 for this subsection. (Section 634)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6016)

(33) Value-Added Intermediary Relending Program

The Senate amendment amends sec. 310B of the ConAct.. The Secretary shall make loans to eligible intermediaries, including State agencies, to make loans to recipients for projects to establish, enlarge, or operate enterprises adding value to agriculture products and commodities. Intermediaries shall give preference to bioenergy projects. Limits loans to \$2 million except in cases where the intermediary is a state agency. Authorizes \$15 million to be appropriated for fiscal years 2003-2006. (Section 636)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Use of Rural Development Loans and Grants for other purposes

The Senate amendment amends subtitle A of the ConAct. If, after making a loan or grant, the Secretary determines the circumstances under which the loan or grant was made have sufficiently changed, the Secretary may allow the recipient to use the loan or grant for other purposes, meeting certain requirements. (Section 637)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6018)

(35) Simplified Application Forms for Loan Guarantees

The Senate amendment amends Sec. 333A of the ConAct. The Secretary shall provide lenders a simplified application for guarantees of farmer program loans under \$100,000 and B&I guaranteed loans under \$400,000. It also provides that after 2003, USDA may increase to \$600,000 the limit on the size B&I loans eligible to use the simplified application process. The Secretary shall develop a process that accelerates processing applications for water and waste disposal grants and loans. (Section 638)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow the simplified application process to be used for guarantees of farmer program loans under \$125,000. (Section 6019)

(36) Definition of Rural and Rural Area

The Senate amendment amends sec 343(a) of the ConAct so that a “rural area” means a city, town or unincorporated area with a population of 50,000 or less (applied to Community Facility loans and grants, B&I direct and guaranteed loans, Sections 601 and 638); 10,000 or less for water and waste disposal grants and loans. Other definitions of rural are provided for multijurisdictional regional planning organizations and the microenterprise program (Section 639)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment to clarify the definition of “rural” and “rural areas”, and reduce the

population requirement for the Community Facilities Program from 50,000 to 20,000. (Section 6020)

(37) Rural Enterprises and Microenterprise Assistance Program

The Senate amendment spends \$10 million each year from 2002-2006. Amends Subtitle D of the ConAct to establish a Program to provide low- and moderate-income individuals with skills to start new small businesses in rural areas, and to provide continuing technical assistance through local organizations as these new businesses begin operating. Grants may be made to qualified organizations to provide training and technical assistance. (Section 642)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(38) Rural Seniors

The Senate amendment amends Subtitle D of the ConAct. The Secretary shall establish an interagency committee to examine special problems of rural seniors and report recommendations to the Senate and House Ag Committees.

Authorizes \$25 million to be appropriated each fiscal year 2003-2006 for grants to nonprofit organizations of up to 20% of the cost of programs that provide facilities, equipment and technology for seniors.

Reserves no less than 12.5% of the Community Facilities program funds for Senior Facilities up to April 1 of each fiscal year.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(39) Children's Day Care Facilities

The Senate amendment provides that Sec 306(a)(19) of the ConAct is amended to reserve no less than 10% of the Community Facilities funds for grants to pay the cost share of developing and constructing day care facilities for children in rural areas up to April 1 of each fiscal year. (Section 642)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6004)

(40) Rural Telework

The Senate amendment amends Subtitle D of the ConAct. The Secretary shall make a grant to an eligible organization to pay the cost of establishing a national rural telework institute. Nonprofit organizations and educational institutions may receive a grant of up to \$500,000 for obtaining equipment and facilities to establish, expand or operate telework locations in rural areas. A 50% match is required. Authorizes \$30 million for each fiscal year 2002-2006, of which \$5 million each year will establish the institute. (Section 643)

The House bill contains no comparable provision

The Conference substitute adopts the Senate provision with an amendment that the matching requirement for a grant be 30 percent the first three years of a project and 50 percent during the fourth and fifth years. The Conference substitute also prescribes non-federal contribution requirements and grant amounts. (Section 6022)

(41) Historic Barn Preservation

The Senate amendment provides that Subtitle D of the ConAct is amended so the Secretary may make grants or enter into agreements with states to rehabilitate, preserve, or identify historic barns. Authorizes \$25 million total for fiscal years 2002-2006. (Section 644)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary. (Section 6023)

(42) Grants for Emergency Weather Radio Transmitters

The Senate amendment amends Subtitle D of the ConAct. Authorizes \$2 million each fiscal year 2002-2006 so the Secretary may make grants to public and nonprofit entities for acquiring radio transmitters to increase coverage of rural areas by the emergency weather broadcast system. (Section 645)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6024)

The Managers are concerned that many rural and remote areas in the United States do not have access to timely and accurate alerts and warnings regarding severe weather in the vicinity. In many cases, timely weather warnings may be the difference between life and death for individuals in the path of severe weather. It is the Managers intent that this grant program increase the coverage area of the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration to as many rural and remote areas as possible.

(43) Delta Regional Authority

The Senate amendment provides that Sec. 382D of the Con Act is amended to clarify (as a drafting matter) the provision relating to supplements to federal grant programs. Subtitle D of the Con Act is amended to add 4 Alabama counties to the definition of Lower Mississippi, and to allow grants for research at a particular university. Sec. 382M(a) of the Con Act is amended by extending authorization of appropriations and authority to 2006. (Section 647)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment clarifying the voting structure. (Section 6027)

(44) SEARCH Grants for Small Communities

The Senate amendment amends the ConAct. States may establish a Council that may apply for a grant of no more than \$1 million. The Council will use this funding to award SEARCH (special environmental assistance for the regulation of communities and habitat) grants to communities with a population with 2,500 or less for an environmental project or to comply with an environmental law. Authorizes \$51 million in appropriations and such sums as are necessary to carry out this section. (Section 648)

The House bill contains no comparable provision.

The Conference substitute does not amend the ConAct. It adopts the Senate provision with an amendment to administer this program through the State Rural

Development Directors, in coordination with the environmental protection director of the State. (Sections 6301, 6302, 6303, 6304)

The consultation and coordination provided by the Environmental Protection Agency is for technical and informational purposes; the Managers intend that the State rural development directors award SEARCH grants in each state. Annual appropriations are authorized at \$1,000,000 per state per year.

The State rural development directors are expected to appoint the members of the independent citizens' councils, which will help receive and review SEARCH grant applications from communities in the state. After a review of the applications by the council, in coordination with the State rural development director and the state environmental protection director, the State rural development directors will award SEARCH grants to communities for environmental projects that are necessary to carry out initial feasibility studies or to assist communities that demonstrate an inability to obtain sufficient funding from traditional sources as determined by the State rural development directors, in coordination with state environmental directors and the Council. Some State and Federal environmental laws and regulations require initial feasibility or environmental studies prior to undertaking an environmental project. It is the Managers' intent that SEARCH grants provided to communities for the purposes of carrying out an initial feasibility or environmental study be consistent with applicable State and Federal laws. It is not the Managers' intent to prohibit SEARCH grants to communities for initial feasibility or environmental studies where such requirements do not exist.

The Managers are aware that many communities do not have experts with the technical ability to complete the paperwork and other documents accompanying traditional funding programs. Therefore, it is the Managers' intent that the application process be simplified and streamlined as is practicable. State rural development directors should work with rural communities to identify the requirements of such a simplified application process.

Many communities coping with environmental laws and regulations are economically distressed and lack the resources to comply with mandates without grant assistance. It is the Managers' intent that State rural development directors not seek a local match from communities for grants awarded if it will result in economic hardship to the community in question. State rural development directors should reserve match requirements for specific situations and circumstances, and allow communities reasonable amounts of flexibility to provide, in lieu of cash payment, in-kind contributions when calculating the cost-share amount.

(45) Northern Great Plains Regional Authority

The Senate amendment amends the ConAct to establish the Authority to be composed of one member appointed by the President and confirmed by the Senate, and the Governors of the states participating in the Authority (Iowa, Minnesota, Nebraska, North Dakota and South Dakota). The Authority may approve grants to state and local governments, public and nonprofit entities for projects including transportation and telecommunication infrastructure, business development, and job training. Establishes distressed areas in which to target funding as well as a minimum requirement for the distribution of funds among the states. State and regional development plans and grant applications must be approved by the Authority. Authorizes \$30 million each fiscal year

2002-2006 for the Authority, which expires in 2006. (Section 649)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision (Section 6028)

The Northern Great Plains Regional Authority is authorized in the states of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. The Authority is expected to develop a series of comprehensive coordinated plans for the economic development of the region. The Conference substitute authorizes appropriations of \$30,000,000 in each of fiscal years 2002 through 2007.

Grants will be made by the Authority particularly to those counties which are distressed, with a special emphasis on transportation, telecommunications, and basic infrastructure such as sewer and water facilities as funds become available. The Managers recognize the ongoing rural development efforts that have evolved from the recommendations of the Northern Great Plains Rural Development Commission. The Commission was established in 1994 through the passage of P.L. 103-318 to prepare a 10-year rural development strategy for the Northern Great Plains Region. The Managers support the efforts of the Northern Great Plains, Inc to implement the Commission's recommendations and urge the Department, along with this organization, to continue to advance the findings of the Commission.

It is the expectation of the Managers that staff resources of that organization are allocated in a balanced manner to the benefit of all parts of the region. Grants to the Authority must be allocated geographically so each state receives at least one third of its proportional population share without regard to the level of distress of counties in that state.

(46) Alternative Agricultural Research and Commercialization Corporation

The House bill extends Sec. 722. Alternative Agricultural research and commercialization revolving fund. (7U.S.C. 5908(g)(1) and capitalization (7 U.S.C. 5908(g)(2) through 2011. (Section 651)

The Senate amendment repeals Subtitle G of Title XVI of the 1990 FACTA. The assets of the Corporation are transferred to the Secretary, and funds and any income shall be deposited into an account in the Treasury to pay outstanding claims or obligations of the Corporation and the cost of carrying out this section. There are other conforming amendments. (Section 651)

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6201)

(47) Telemedicine and Distance Learning Services in Rural Areas

The Senate amendment amends Section 2335A of the 1990 FACTA to extend this provision through 2006. (Section 652)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6203)

The Managers direct that public television entities are eligible to receive assistance under this section for high speed telecommunication services in rural areas to provide educational programming for schools and communities in rural areas.

(48) Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes

The Senate amendment amends the REA. The Secretary shall guarantee bonds and notes issued by an eligible private lender if the proceeds are used for electrification or telephone projects eligible for assistance under this Act. The Secretary may not guarantee the bonds if they are not of reasonable and sufficient quality and for several other reasons. Bonds funding electric generation projects are specifically excluded from this program. Authorizes such sums as are necessary. Provides for fees for the issuance of the guarantees.

Proceeds from the fees minus certain costs are placed in an economic development subaccount. Grants as provided by current law are made from the subaccount for economic development. (Section 661)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6101)

This section provides for a new source of private funding for the Rural Economic Development Loan and Grant (REDLG) program. Since enactment in 1987, the REDLG program has provided approximately \$185 million in economic development assistance to rural communities in the form of grants and zero-interest loans for rural development projects such as water and waste, business incubator, schools, hospitals, emergency services, and general economic and community development.

Private funding is provided through the payment of an annual 30 basis point fee by lenders that issue bonds or notes guaranteed by the Administrator of RUS under this section. These fees are placed in a sub-account for the purpose of providing the budget authority for eligible economic development projects through intermediaries participating in the REDLG program.

The provision provides for safety and soundness and permits the Administrator to deny the request of a lender for a guarantee if the lender does not have expertise and experience in rural utility lending, or issues bonds that, without the guarantee, would not be of investment grade quality. In addition, a lender should provide documentation that the proceeds of a guaranteed bond or note are used for eligible REAct purposes.

This provision further requires that a private lender make payments on the bonds or notes even if a loan made using the proceeds of such bond or note is not repaid to the lender. This effectively places the lender between the RUS and the borrower minimizing the risk to the government

(49) Expansion of 911 Access

The Senate amendment amends Title III of the REA. The Secretary may make telephone loans to state or local governments, Indian tribes, or other public entities for facilities and equipment to expand 911 access in rural areas. Authorizes such sums as are necessary. (Section 662)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6102)

TITLE VII - RESEARCH AND RELATED MATTERS

Subtitle A – Extensions

(1) Market Expansion Research

The House bill extends section 1436(b)(3)(C) of the Food Security Act of 1985 (7 U.S.C. 1632(b)(3)(c)) through 2011. (Section 700)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to repeal Section 1436 (b)(3)(C) of the Food Security Act of 1985. (Section 7303)

(2) National Rural Information Center Clearing-House

The House bill extends section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) through 2011. (Section 701)

The Senate amendment amends and generally revises section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 and transfers authority from the research mission area to the rural development mission area. (Section 607)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. The Managers expect the Rural Development mission area of the Department to highlight the existence and resources of the Rural Information Center of the National Agricultural Library on its websites and in its informational materials. (Section 7101)

(3) Grants and Fellowships for Food and Agricultural Sciences Education

The House bill extends section 1417(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(1)) through 2011. (Section 702)

The Senate amendment amends section 1417 of NARETPA in several places to expressly include teaching and educational programs in "rural economic, community, and business development" as eligible purposes or recipients under this grant program and extends the authorization through 2006. (Section 703)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7102)

(4) Policy research centers

The House bill extends section 1419A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(d)) through 2011. (Section 703)

The Senate amendment extends NARETPA (7 U.S.C. 3155(d)) through 2006. (Section 706(2)).

The Conference Substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7103)

(5) Human nutrition intervention and health promotion research program

The House bill extends section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) through 2011. (Section 704)

The Senate amendment amends section 1424 of NARETPA to extend authorization through 2006. (Section 707)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7104)

(6) Pilot research program to combine medical and agricultural research

The House bill extends section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) through 2011. (Section 705)

The Senate amendment extends section 1424A of the NARETPA through 2006. (Section 708)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7105)

(7) Nutrition education program

The House bill extends section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) through 2011. (Section 706)

The Senate amendment extends section 1425 of NARETPA through 2006. (Section 709)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7106)

(8) Continuing Animal Health and Disease Research Programs

The House bill extends section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) through 2011. (Section 707)

The Senate amendment extends section 1433 of NARETPA through 2006. (Section 710)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7107)

(9) Appropriations for research on national or regional problems

The House bill extends section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) through 2011. (Section 708)

The Senate amendment extends section 1434 of NARETPA through 2006. (Section 711)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7108)

(10) Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University

The House bill extends section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) through 2011. (Section 709)

The Senate amendment amends section 1447 of NARETPA to increase the authorization from \$15 million to \$25 million and extends the authorization through 2006. (Section 760)

The Conference substitute adopts the Senate provision with an amendment authorizing such sums as necessary and extending the authorization through 2007.

(Section 7109)

(11) National Research and Training Centennial Centers at 1890 Land-Grant Institutions

The House bill extends section 1448(a)(1) and (f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c(a) (1) and (f)) through 2011. (Section 710)

The Senate amendment extends section 1448 of NARETPA through 2006 and strikes "centennial" and replaces it with "virtual" each place it appears. (Section 761)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7110)

(12) Hispanic Serving Institutions

The House bill extends section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) through 2011. (Section 711)

The Senate amendment extends section 1455 of NARETPA through 2006. (Section 712)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7111)

(13) Competitive Grants for International Agricultural Science and Education Programs

The House bill extends section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b (c)) through 2011. (Section 712)

The Senate amendment extends section 1459A of NARETPA through 2006. (Section 713)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7112)

(14) University Research

The House bill extends subsections (a) and (b) of section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a) and (b)) through 2011. (Section 713)

The Senate amendment extends section 1463(a) of NARETPA to increase the authorization from \$850 million per year to \$1.5 billion per year, and extends the authorizations in subsections (a) and (b) to 2006. (Section 716)

The Conference substitute adopts the House provision with an amendment authorizing such sums as necessary and extending the authorization through 2007. (Section 7113)

The Managers encourage the Secretary to review USDA competitive grants programs administered by the Cooperative States Research, Education and Extension Service and provide to Congress a report that includes an accounting of the success of minority-serving institutions in accessing competitive research funding during the applicable fiscal year, and recommendations for steps that Congress, the Administration and the minority-serving institutions might take to achieve greater success by minority-serving institutions in securing competitively awarded grant funds.

(15) Extension Service

The House bill extends section 1464 the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) through 2011. (Section 714)

The Senate amendment extends section 1464 of NARETPA to increase the authorization from \$420 million to \$500 million and extend it through 2006. (Section 717)

The Conference substitute adopts the House provision with an amendment authorizing such sums as necessary and extending the authorization through 2007. (Section 7113)

The Managers recognize the importance of ensuring that America's farmers and ranchers have the tools necessary to remain the most productive, efficient and competitive producers in the global marketplace. Due to the complexity of marketing and management issues, intensive educational efforts have proven effective in helping producers increase their returns. The Agricultural Risk Protection Act acknowledged the need to establish a risk management education program to inform agricultural producers about the full range of risk management activities available to them.

One program that has proven to be successful is the Master Marketer Educational System (MMES) conducted by Texas Cooperative Extension. This intensive training course takes producers from an intermediate to an advanced level in marketing/risk management. Program graduates serve as volunteer leaders in establishing and /or revitalizing marketing clubs in their home county to share what they have learned. Two-year post-training surveys have indicated that graduates have increased their returns by \$25,000 to \$30,000 per year. While the Master Marketer training and marketing clubs are the cornerstones of the system, MMES also includes an advanced topic series for producers and an in-depth risk management training for lenders. The Managers encourage the Secretary of Agriculture to expand such programs to provide quality risk management training for farmers across the country.

(16) Supplemental and Alternative Crops

The House bill extends section 1473D(a) the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) through 2011. (Section 715)

The Senate amendment extends section 1473D of NARETPA through 2006. (Section 720)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7115)

(17) Aquaculture Research Facilities

The House bill extends section 1477 of the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) through 2011. (Section 716)

The Senate amendment extends section 1477 of NARETPA through 2006. (Section 721)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7116)

(18) Rangeland Research

The House bill extends section 1483(a) of the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) through 2011. (Section 717)

The Senate amendment extends section 1483 of NARETPA through 2006. (Section 722)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7117)

(19) National Genetics Resources Program

The House bill extends section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is extended through 2011. (Section 718)

The Senate amendment extends section 1635 of the FACT Act through 2006. (Section 731)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7118)

(20) High-priority research and extension initiatives

The House bill extends section 1672(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(h)) is extended through 2011. (Section 719)

The Senate amendment extends section 1672 of the FACT Act through 2006. (Section 734)

The Conference substitute combines the House and Senate provision, conforming to the format of the House provision and extending the authorization through 2007. (Section 7119)

The Managers note that the US Department of Agriculture has relocated the Western Human Nutrition Research Center (WHNRC) to the University of California, Davis campus. In order to ensure that the full potential of a research and education partnership between the WHNRC and the University is realized, the Managers fully expect the Secretary of Agriculture to establish a Cooperative Agreement, to replace the current Memorandum of Understanding, with the University of California for the management of the WHNRC by August 1, 2002.

The Managers expect that the Secretary shall, in making grants under paragraph 41, give priority to proposals to: i) establish and coordinate priorities for genetic evaluation of domestic beef cattle; ii) consolidate research efforts to reduce duplication of effort and maximize the return to beef industry; iii) streamline the process between the development and adoption of new genetic evaluation methodologies by the industry; iv) identify new traits and technologies for inclusion in genetic programs in order to reduce the costs of beef production and provide consumers with a high nutritional value, healthy, and affordable protein source or create decision making tools that incorporate the increasing number of traits being evaluated and the increasing amount of information from DNA technology into genetic improvement programs, with the goal of optimizing the overall efficiency, product quality and safety, and health of the domestic beef cattle herd resource.

The Managers recognize the importance of proper management and stewardship of the Ogallala Aquifer and other natural resources to the long-term viability of

agricultural enterprises and communities in the Central and Southern Great Plains. The Managers recognize the ongoing efforts of educational institutions and agricultural entities in this region that have expertise in developing enhanced management strategies for conserving water, natural resources and associated agricultural infrastructure in order to protect the region's economic integrity over the long term. The Managers commend multi-disciplinary research efforts to develop new technologies and strategies to manage and utilize water and natural resources to produce sustainable economic returns.

To maintain the economic vitality and rural population base of the Central and Southern Great Plains, the Secretary is encouraged to give priority to and fund collaborative research efforts that seek to protect the water and natural resources of this region.

(21) Nutrient Management Research and Extension Initiative

The House bill extends section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) through 2011. (Section 720)

The Senate amendment extends section 1672A of the FACT Act through 2006. (Section 735)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7120)

The Managers acknowledge the many benefits of the worm farming industry. Worm farms, while not recognized in any specific program within the USDA, provide considerable environmental benefits. By recycling organic waste, worms fertilize our agriculturally productive lands and improve nutrient-deficient soil. The Managers encourage the USDA to study and promote worm farming industry techniques that are beneficial to the environment.

(22) Agriculture Telecommunications Program

The House bill extends section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) through 2011. (Section 721)

The Senate amendment extends section 1673 of the FACT Act through 2006. (Section 737)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7121)

(23) Alternative Agricultural research and commercialization revolving fund

The House bill extends section 1664(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908(g)(1) and the capitalization section 1664(g)(2) of the FACT Act (7 U.S.C. 5908(g)(2)) is extended through 2011. (Section 722)

The Senate amendment repeals the provision and provides authority to the Secretary for the orderly disposal of AARCC assets. (Section 651)

The Conference substitute adopts the Senate provision (Sec. 6201).

(24) Assistive technology program for farmers with disabilities

The House bill extends section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) through 2011.

The Senate amendment extends section 1680 of the FACT Act through 2006.

The Conference substitute adopts the House provision with an amendment to

extend the authorization through 2007. (Section 7122)

(25) Partnerships for high-value agricultural product quality research

The House bill extends section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) through 2011. (Section 724)

The Senate amendment extends section 402 of AREERA through 2006. (Section 742)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7123)

(26) Biobased products

The House bill extends section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) and section 404(h) the authorization of appropriations of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) through 2011. (Section 725)

The Senate amendment extends section 404 of AREERA for the basic authorization for the program and the authority to conduct the pilot project through 2006. (Section 744)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7124)

(27) Integrated research, education, and extension competitive grants program

The House bill extends section 406(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(e)) through 2011. (Section 726)

The Senate amendment amends section 406 of AREERA to provide that the term for a grant under that section shall not exceed 5 years and to extend the authorization through 2006. (Section 746)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7125)

(28) Institutional capacity building grants

The House bill extends section 535(b)(1) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) through 2011. (Section 727)

The Senate amendment amends section 535 of the Act to extend the authorization for institutional capacity building grants through 2006 and change the authorized amount from \$1.7 million per year to such sums as necessary. (Section 755(f))

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7126)

(29) 1994 Institution research grants

The House bill extends section 536(c) of the Equity in Educational Land-grant States Act of 1994 (7 U.S.C. 301 note) through 2011. (Section 728)

The Senate amendment amends section 536 of the Act to extend the authorization for the research grants program through 2006. (Section 755(g))

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7127)

(30) Endowment for 1994 Institutions

The House bill extends section 533(b) of the Equity in Educational Land-grant States Act of 1994 (7 U.S.C. 301 note) through 2011. Current authorization limit of \$4,600,000 is amended to “such sums as are necessary”. (Section 729)

The Senate amendment extends the authorization of the 1994 Institutions endowment under section 533 of the Act through 2006 and changes the amount from \$4.6 million per fiscal year to such sums as are necessary. (Section 755(c))

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7128)

(31) Precision agriculture

The House bill extends section 403(i) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i) through 2011. (Section 730)

The Senate amendment extends section 403 of AREERA through 2006. (Section 743)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7129)

(32) Thomas Jefferson Initiative for crop diversity

The House bill extends section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h) through 2011. (Section 731)

The Senate amendment extends section 405 of AREERA through 2006. (Section 745)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7130)

(33) Support for research regarding diseases of wheat, triticale, and barley caused by Fusarium graminearum or by Tilletia Indica

The House bill extends section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e) through 2011.

The Senate amendment extends section 408 of AREERA through 2006. (Section 747)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007 and strike the dollar figure and authorize such sums as are necessary. (Section 7131)

(34) Office of Pest Management Policy

The House bill extends section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f) through 2011. (Section 733)

The Senate amendment extends section 614 of AREERA through 2006. (Section 750A)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7132)

(35) National Agricultural Research, Extension, Education and Economics Advisory Board

The House bill extends section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h) through 2011. (Section 734)

The Senate amendment amends section 1408 of NARETPA to extend the term of the Board through 2006. (Section 702)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7133)

(36) Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products

The House bill extends section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) through 2011. (Section 735)

The Senate amendment extends section 1419 of NARETPA through 2006. (Section 705)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7134)

(37) Biomass research and development

The House bill extends title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) through 2011. (Section 736)

The Senate amendment extends title III of ARPA through 2006. (Section 903)

The Conference Substitute adopts the Senate provision with amendments. The conference substitute provides \$12,500,000 annually for each fiscal year 2002-2007. (Section 9008)

(38) Agricultural Experiment Stations Research Facilities

The House bill extends section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) through 2011. (Section 737)

The Senate amendment extends section 6 of the Research Facilities Act through 2006. (Section 782)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7135)

(39) Competitive, Special, and Facilities Research Grants, National Research Initiative

The House bill extends subsection 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450(i)(b)(10)) through 2011. (Section 738)

The Senate amendment extends subsection (b)(10) through 2006. (Section 784)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7136)

(40) Federal agricultural research facilities authorization of appropriations

The House bill extends section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (P.L. 99-198; 99 Stat. 1556) through 2011. (Section 739)

The Senate amendment extends section 1431 of the NARETPA through 2006. (Section 783)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7137)

(41) Cotton Classification Services

The House bill extends the first sentence of section 3a of the Act of March 3, 1927 (commonly known as the “Cotton Statistics and Estimates Act; 7 U.S.C. 473a) through 2011. (Section 740)

The Senate amendment extends the first sentence of section 3a of the Act of March 3, 1927 through 2006. (Section 1047)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Sec. 10501)

(42) Critical Agricultural Materials Research.

The House bill extends section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) through 2011. (Section 740A)

The Senate amendment extends section 16 of the Act through 2006. (Section 781)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7138)

Subtitle B – Modifications

(43) Equity in Educational Land-Grant Status Act of 1994

The House bill amends section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) by increasing the authorization of appropriations from \$50,000 to \$100,000; by modifying the definition by which full-time equivalent Indian Student Count is calculated; by making accreditation requirements; and by updating the names of the 1994 institutions. (Section 741)

The Senate amendment has the same language but also adds White Earth Tribal and Community College to the list of 1994 Institutions. (Section 755)

The Conference substitute adopts the House provision for 741(a), the Senate provision for 741(b), the Senate provision for 741(c), and the Senate provision for 741(d) with an amendment that adds White Earth Tribal and Community College to list of 1994 Institutions and requires USDA to report to Congress with guidance on standards for future additions. (Section 7201)

(44) The National Agricultural Research, Extension, and Teaching Policy Act of 1977

The House bill amends Section 1404(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7.U.S.C. 3103(4)) by adding 1994 institutions to the definition of colleges and universities. Intent is to make 1994 land grant institution eligible for competitive grants. (Section 742)

The Senate amendment has the same intent, but adds the 1994 Institutions to the list of institutions eligible for the Integrated Grants Program in section 406 of AREERA. (Section 756)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7209)

(45) Agricultural Research, Extension, and Education Reform Act of 1998

The House bill amends section 401(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(c)(2)) by adding:

- 1) alternative fuels and renewable energy sources to Priority Mission Areas ;
- 2) by including energy efficiency in priority research areas in Precision Agriculture (7 U.S.C. 7623; by including energy efficiency in priority research areas of the Thomas Jefferson Initiative for Crop Diversity (7 U.S.C. 7625(a));
- 3) by including energy efficiency and renewable resources in priority research areas of the Coordinated Program of Research, Extension, and Education to Improve Viability of Small and Medium Size Dairy, Livestock, and Poultry Operations (7 U.S.C. 7627);
- 4) by amending section 408 of AREERA, Support for Research Regarding Diseases of Wheat, Triticale, and Barley caused by *Fusarium graminearum* or by *Tilletia indica* (7 U.S.C. 7628(a)) to include research related to Karnal bunt identification and control; and
- 5) by adding a new section to the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq) to authorize a Program to Control John's Disease. (Section 743)

The Senate amendment provides for the definition of precision agriculture, adds "horticultural" into subsection (a)(3)(A), adds a new subsection (a)(3) (E) to read "using such information to enable intelligent mechanized harvesting and sorting systems for horticultural crops"; and adds a new subsection (a)(4)(E) to read "robotic and other intelligent machines for use in horticultural cropping systems" and in subsection (c)(2) by adding "horticultural" after "agronomic" and adding "product variability". (Section 743)

The Conference substitute adopts the Senate provision from 743(a) and the House provision from 743(b), (c), (d), (e), and (f). (Section 7207)

The Managers do not intend that any future funds made available for *Tilletia indica* (commonly referred to as Karnal Bunt) research would be taken from the amount presently made available for research related to *Fusarium graminearum* (commonly referred to as Wheat Scab).

(46) Food, Agriculture, Conservation, and Trade Act of 1990

The House bill amends section 1671(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(b)) to include plant pathogens as an eligible research priority. The House bill also amends the High-Priority Research and Education Initiative section 1672(e) of the FACT Act (7 U.S.C. 5925(e)) to include several new high-priority research and extension projects:

- research to protect the United States food supply and agriculture from bioterrorism
- wind erosion research
- crop loss research and extension
- land use management research and extension
- water and air quality research and extension
- revenue and insurance tools research and extension
- agrotourism research and extension
- harvesting productivity for fruits and vegetables
- nitrogen-fixation by plants
- agricultural marketing

- environment and private lands research and extension
- livestock disease research and extension
- plant gene expression (Section 744)

The Senate amendment amends section 1672 of the FACT Act to extend the authorization through 2006 and add the following new high-priority research and extension areas:

- animal infectious diseases research and extension
- program to combat childhood obesity
- integrated pest management
- beef cattle genetics
- dairy pipeline cleaner (with a set-aside of not less than \$100,000 of authorized funds for this purpose)
- plant and animal varieties (Section 743)

The Conference substitute adopts the House provision for Section 744(a) and the Senate provision for Section 744(b) with an amendment conforming Senate provisions to the format of the House provision and combining both the House and Senate lists of high priority research and extension projects. Additional priorities to be named are Genetically Modified Agriculture Products Research, Publicly Held Plant and Animal Varieties, and Sugarcane Genetics. New language is added to the assistive technology program for farmers with disabilities to ensure full consideration is given to entities applying for grants but have not previously received grants.. (Section 7208)

The Managers recognize the success of state AgrAbility programs that have benefited from assistive technology competitive grants. The Managers understand the difficulty faced by new applicants in competing with established programs for limited funds. To continue the success of this program and broaden its scope to additional states, the Managers encourage full funding of the program and urge the Secretary to give full consideration to the potential merits of eligible programs that have not previously received a grant award.

(47) The National Agricultural Research, Extension, Education and Teaching Policy Act of 1977

The House bill amends section 1408 of the National Agricultural Research Extension, Education and Teaching Policy Act of 1977 -- National Agricultural Research, Extension, Education, and Economics Advisory Board. (7 U.S.C. 3123) to add a non Land-grant college or university representative to the board, and provide authority for the board to consult with Congress and non-research agencies of the U.S. Department of Agriculture. Total Membership of the Advisory Board is increased from 30 to 31 members; and section 1419 of that Act -- Grants for Research on Production and Marketing of Alcohols and Industrial Hydrocarbons from Agricultural Commodities and Forest Products (7 U.S.C. 3154) to include industrial oilseed crops.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is also amended to authorize an internship program in Foreign Agriculture Service overseas offices. (Section 745)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to move the provision concerning the total number of Advisory Board Members from

subsection (c) to subsection (a) of House Section 745. New language amends current law to allow for funding of the Joe Skeen Institute for Rangeland Restoration. (Sec. 7209)

(48) Biomass Research and Development

The House bill amends title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) to include biodiesel in the Congressional Statement of Findings, to include animal by-products in the definition of "Biomass", and to add a livestock trade association representative to the Biomass Research and Development Technical Advisory Committee. (Section 746)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(49) Biotechnology Risk Assessment Research

The House bill amends section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) to ensure that risk assessment projects carried out under this program compare the risks associated with products of agricultural biotechnology to those associated with traditionally bred plants and animals. Assessment is increased from 1% to 3%. (Section 747)

The Senate amendment amends section 1668 of the FACT Act by inserting a new subsection providing priorities for grant award and raising from 1 percent to 3 percent the amount to be withheld from USDA biotech research outlays for the purpose of making grants under this section for research on biotechnology risk assessment, with new language specifying that the research be "on all categories identified by the Secretary of Agriculture as biotechnology".

Under the new language, "the Secretary shall give priority to public and private research or educational institutions and organizations the goals of which include--

(1) formation of interdisciplinary teams to review or conduct research on the environmental effects of the release of new genetically modified agricultural products;

(2) conduct of studies relating to biosafety of genetically modified agricultural products;

(3) evaluation of the cost and benefit for development of an identity preservation system for genetically modified agricultural products;

(4) establishment of international partnerships for research and education on biosafety issues; or

(5) formation of interdisciplinary teams to renew and conduct research on the nutritional enhancement and environmental benefits of genetically modified agricultural products.

(Section 732)

The Conference substitute adopts the House provision with an amendment adding genetically engineered microorganisms as a priority topic for risk assessment research, including international partnerships on bio-safety as a research priority, and reducing the amount withheld from biotechnology research funding from 3 % to 2 %. (Section 7210)

(50) Competitive, Special, and Facilities Research Grants

The House bill amends section 2(a) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(a)) to provide for consultation on development of program priorities with the National Agriculture Research, Extension, Education, and Economics Advisory Board. (Section 748)

The Senate amendment amends subsection (b)(2) of the Act to strike the stated

substantive areas of national and multistate needs under high priority research and instead provide for the Secretary to determine those needs in consultation with the REE Board not later than July 1 of each fiscal year for the following fiscal year. (Section 784)

The Conference substitute adopts the Senate provision with an amendment to retain the high priority research focuses prescribed in current law. (Section 7211)

(51) Matching Funds Requirement for Research and Extension Activities of 1890 Institutions

The House bill amends section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) to phase in an increased matching requirement for non-Federal funds for 1890 land-grant colleges and universities to 100% by 2007. The Secretary is granted authority to waive the matching requirement if it is unlikely that a Territorial college will be able to satisfy the matching requirement in an individual fiscal year. (Section 749)

The Senate amendment amends the matching requirements for 1890 Institution research and extension formula funds in section 1449 of NARETPA to require that a State must match 60 percent of Federal funds provided an 1890 Institution in FY 2003 and provide a match of 110 percent of the amount required to be matched in the prior fiscal year for FY 2004 through 2006. For fiscal years 2003 through 2006, the Secretary may waive any amount of the match above 50 percent for an institution if the Secretary determines that the State will be unlikely to meet the matching requirement. (Section 762)

The Conference substitute adopts the House provision with an amendment to require a unified approach to a phase-in of 100% matching requirement over 5 years; extended through 2007. (Section 7212)

(52) Matching Fund Requirement for Research and Extension Activities for the United States Territories

The House bill amends Section 3(d)(4) of the Hatch Act of 1877 (7 U.S.C. 361c(d)(4)) and section 3(e)(4) of the Smith-Lever (7 U.S.C. 343(e)(4)) making a technical correction to establish matching requirements. (Section 749A)

The Senate amendment has the same intent, but legislative language is drafted significantly differently. (Section 776)

The Conference substitute adopts the Senate provision. (Section 7213)

(53) The Initiative for Future Agriculture and Food Systems

The House bill amends section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) to provide a total of \$1,160,000,000 to be transferred from the Treasury in equal increments for each fiscal year beginning on October 1, 2003 through September 30, 2011. Funds transferred beginning on October 1, 2003 would be available until expended Funds will be deposited directly into the Commodity Credit Corporation accounts as opposed to a separate account in the Treasury. (Section 750)

The Senate amendment amends section 401 of AREERA to retain \$130 million in mandatory money for 2002 and extend the program for fiscal years 2003 through 2006 at \$225 million per fiscal year in mandatory money. Encourages Secretary to set aside 10% of available funds for minority serving institutions. (Section 741)

The Conference substitute adopts the House provision with an amendment adding “minority-serving institutions” to the list of those institutions that have not previously been successful in obtaining competitive grants under current law, adding rural economic policy analysis as a critical issue for research, and extending the authorization for the program through 2007. New language creates a budgetary baseline and provides \$1.3 billion in new mandatory funding. (Section 7205)

In making grants to address rural economic and business and community development policy issues, the Managers encourage the agency to solicit and fund research, education, and extension projects on rural policy, rural economic and community development, agriculturally-based development, new and alternative markets, locally-owned value-adding enterprises, and self employment and entrepreneurial opportunities. The Managers also encourage the agency to solicit project proposals addressing critical issues related to improving the effectiveness of Federal rural and agricultural development programs, including projects directly involving rural organizations and rural entrepreneurs that participate in Federal rural development programs.

The Managers note the importance of funding for the farm efficiency and profitability priority mission area. The Managers encourage the agency to solicit and fund projects which promote the development of management and marketing systems that improved profitability, including development of diversification and input cost reduction strategies; effective local, regional, and international marketing programs; farm-based value-added processing and new high return production and marketing niches; improved methods of managing risk; and means to improve management and marketing of natural and environmental resources. Also, as part of this priority mission area, the Managers encourage the agency to solicit and fund research and development of farm tenure, transfer, succession, finance, management, production, and marketing models and strategies that foster new farming and ranching opportunities for beginning farmers and ranchers.

(54) Carbon Cycle Research

The House bill amends section 221 of the Agricultural Risk Protection Act of 2000 (P.L. 106-224; 114 Stat. 407) to provide an authorization of appropriations so that a discretionary program could be continued. (Section 751)

The Senate amendment is similar but authorization is extended only through 2006. (Section 787)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7223)

The Managers recognize the success of the carbon cycle research consortium (created by Sec. 221 of the Agriculture Risk Protection Act of 2000) and encourage these institutions to continue their cooperative work. The Managers understand that the consortium network may be expanded, as deemed appropriate by the consortium, to include additional institutions with interest or expertise in carbon cycle research.

(55) Definition of Food and Agricultural Sciences.

The House bill amends section 2(3) of the Research Facilities Act (7 U.S.C. 390(2)(3)) to strike the definition of Food and Agricultural Sciences and instead refer to the definition of Food and Agricultural Sciences in section 1408(8) of the National

Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)). (Section 752)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7214)

(56) Federal Extension Service

The House bill amends section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) to provide that “such sums as are necessary” may be appropriated to carry out this section. (Section 753)

The Senate amendment rewrites section 3(b)(3) of the Smith-Lever Act, which authorizes extension funds for the 1994 Institutions, to change the authorization from \$5 million to such sums as necessary beginning in FY 2002, to change the manner of distribution of such funds from a competitive application basis to a formula to be developed and implemented by the Secretary in consultation with the 1994 Institutions, and allows payments for extension activities that may be carried out in more than one fiscal year. (Section 754)

The Conference substitute adopts the House provision with an amendment to allow the carry-over of funding until expended. (Section 7215)

(57) Policy Research Centers

The House bill amends section 1419A(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act (7 U.S.C. 3155(c)(3)) to provide that grant funding may be used to disseminate policy research information. (Section 754)

The Senate amendment is the same language.

The Conference substitute adopts the Senate provision. (Section 7216)

Subtitle C—Related Matters

(58) Resident Instruction at Land-grant Colleges in U.S. Territories

The House bill provides new authority for resident instruction at land-grant colleges in United States Territories, subject to the availability of appropriations. (Section 761)

The Senate amendment amends section 1404 of the NARETPA of 1977 to add a definition for “insular area” to include the Commonwealth of Puerto Rico and U.S. Territories. (Section 701)

Also amends NARETPA to add a new subtitle O – Land Grant Institutions in Insular Areas. The “insular areas” are defined in section 1404 of NARETPA as amended by section 701 of the bill. New section 1489 under that subtitle provides an authorization of \$4 million per fiscal year through 2006 for the Secretary to make competitive or noncompetitive grants to State cooperative institutions (i.e., land-grants) in insular areas to strengthen the capacity of such institutions to carry out distance food and agricultural education programs using digital network technologies. Grants may be used: (1) to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure necessary to teach students and teachers about technology in the classroom; (2) to develop and provide educational services (including faculty development) to prepare students or faculty seeking a degree

or certificate approved by the State or a DOE recognized regional accrediting body; (3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to those who seek to acquire or enhance technology skills for use of technology in the instructional process; (4) to implement a joint project to provide technology education in the classroom with a local educational agency, community-based organization, national nonprofit, or a business; (5) to provide leadership development to administrators, board members, and faculty of eligible institutions with responsibility for technology education. Funds may not be used for the planning, acquisition, construction, rehab, or repair of buildings. The Secretary may carry out the program in a manner that recognizes the different needs and opportunities between institutions in the Pacific and those in the Atlantic. The Secretary may establish a matching requirement of up to 50 percent, which is subject to waiver. (Section 775)

The Conference substitute adopts the House provision with an amendment to combine House section 761 with Senate sections 701 and 775. The amendment also makes technical changes in Senate section 775, strikes the reference to businesses located within a HUB Zone under the Small Business Act, authorizes funding at such sums as are necessary, and extends the authorization through 2007. (Section 7503)

(59) Declaration of Extraordinary Emergency and Resulting Authorities

The House bill amends section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)), section 442 of the Plant Protection Act (7 U.S.C. 7772), section 11 of the Act of May, 1884, commonly known as the “Animal Industry Act” (21 U.S.C. 114a) and the first section of the Act of September 25, 1981 (7 U.S.C. 147b) to provide for more efficient management of declarations of extraordinary emergencies and transfer of funds from the Commodity Credit Corporation.

A new section (419(a)) is added to the Plant Protection Act that requires the Secretary to determine if uses of methyl bromide required by state, local and tribal authorities to control the spread of plant pests and noxious weeds shall be authorized. In addition, the Secretary would maintain a registry of authorized uses. (Section 762)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision for 762(a) and deletes the House provision for 762(b). For Section 762(c), the Conference substitute adopts the House provision with an amendment to require the Secretary of Agriculture to consider the availability of methyl bromide alternatives prior to making a determination under this section, and to establish a program, in consultation with State, local and tribal authorities to identify methyl bromide alternatives. Exemptions from regulatory procedures under the Administrative Procedures Act and Paperwork Reduction Act are eliminated. A rule of construction is included to provide that nothing in this section would alter or modify the authority of the Administrator of the Environmental Protection Agency or to provide authority to the Secretary of Agriculture under the Clean Air Act or regulations promulgated under the Clean Air Act. (Section 7504)

(60) Agricultural Biotechnology Research and Development for the Developing world

The House bill authorizes the Secretary to use \$5 million for each of the fiscal years 2004 through 2008 from funds allocated to the Initiative for Future Food and Agriculture Systems to establish a competitive grants program for the development of agricultural biotechnology in the developing world. (Section 763)

The Senate amendment provides an authorization of \$5 million per year from 2002 through 2006 for the Secretary, acting through FAS, to carry out a competitive grant program to develop agricultural biotechnology for developing countries. Eligible recipients would include historically black colleges and universities, Hispanic-serving institutions, tribal colleges or universities that offer a curriculum in agriculture or the biosciences, a nonprofit organization, or a consortium of for-profit institutions and agricultural research institutions. Grants would be available for biotechnology projects that:

- (1) enhance nutritional content of agricultural products that can be grown in developing countries;
 - (2) increase the yield and safety of agricultural products that can be grown in the developing countries;
 - (3) increase the yield of agricultural products that are drought and stress-resistant and that can be grown in developing countries
 - (4) extend the growing range of crops that can be grown in developing countries;
 - (5) enhance the shelf-life of fruits and vegetables grown in countries;
 - (6) develop environmentally sustainable agricultural products that can be grown in developing countries; and
 - (7) develop vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically engineered agricultural products.
- (Section 750)

The Conference substitute adopts the Senate provision with an amendment to modify the definition of “eligible entity” to include all colleges and universities with an agricultural or bioscience curriculum and to authorize such sums as necessary through 2007. (Section 7505)

Subtitle D – Repeal of Certain Activities and Authorities

(61) Food safety research information office and national conference

The House bill repeals subsections (b) and (c) of section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7654(b) National Conference and (c)) Food Safety Report. (Section 771)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7301)

(62) Reimbursement of expenses under sheep promotion, research, and information Act of 1994

The House bill repeals section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998 (P.L. 105-185; 112 Stat. 607).

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7302)

(63) National Genetic Resources Program

The House bill repeals section 1634 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5843). (Section 773)

The Senate amendment extends section 1634 of the FACT Act through 2006. (Section 731)

The Conference substitute adopts the Senate provision with an amendment to authorize through 2007. (Section 7118)

(64) National Advisory Board on Agricultural Weather

The House bill repeals section 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5853). (Section 774)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7304)

(65) Agricultural Information Exchange with Ireland

The House bill repeals section 1420 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (P.L. 99-198; 99 Stat. 1551). No comparable provision. (Section 775)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7305)

(66) Pesticide Resistance Study

The House bill repeals section 1437 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (P.L. 99-198; 99 Stat. 1558). (Section 775)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7306)

(67) Expansion of Education Study

The House bill repeals section 1438 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (P.L. 99-198; 99 Stat. 1559). (Section 777)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7307)

(68) Support for advisory board

The House bill repeals section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127). (Section 778)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(69) Task force on 10-year strategic plan for agricultural research facilities

The House bill repeals section 4 of the Research Facilities Act (7 U.S.C. 390b). (Section 779)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7308)

Subtitle E – Agriculture Facility Protection

(70) Additional Protections for Animal or Agricultural Enterprises, Research Facilities, and other Entities.

The House bill amends the Research Facilities Act (7 U.S.C. 390 et seq.) by

adding a new section to provide the Secretary with authority to investigate and assess civil penalties in cases of reckless or intentional destruction of animal or agricultural enterprises. A civil penalty assessed by the Secretary against a person for a violation shall be not less than the total cost incurred by the Secretary and the total cost of the economic damage suffered by the agricultural enterprise. A fund to assist victims of disruption would be established in the Treasury consisting of that portion of each civil penalty that represents the recovery of economic damages. The Secretary of Agriculture shall use the fund to compensate an animal or agricultural enterprise for economic losses. (Section 790)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(71) Competitive Research Facilities Grant Program

The Senate amendment amends NARETPA to add a new section 1417A providing an authorization for a new competitive food and agricultural research facilities grant program 1862 Institutions, 1890 Institutions, 1994 Institutions, Hatch experiment stations, McIntire-Stennis schools, veterinary schools under the animal and health disease formula program authorized in NARETPA, and Hispanic-serving institutions. Grants awarded have to support the national research purposes specified in section 1402, States with more than one institution must coordinate proposals, and the Secretary may require a match and may afford an evaluation preference for matches made with cash. (Section 704)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(72) Indirect Costs

The Senate amendment amends section 1462 of NARETPA by striking the 19 percent cap on indirect costs for competitive agricultural research, education, and extension grants under the authority of the Under Secretary for REE and providing instead that the cap shall be the "negotiated indirect cost rate established for an institution by the cognizant Federal audit agency for that institution" and also adds a new subsection specifying that the cap does not apply to SBIR grants (Section 714)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to exempt grants awarded competitively under the Small Business Act. (Section 7222)

(73) Research Equipment Grants

The Senate amendment adds a new section 1462A to NARETPA providing an authorization for \$50,000,000 per year for a competitive research equipment grants program for the acquisition of special purpose scientific research equipment for use in the food and agricultural sciences programs of colleges and universities and 1862 Institutions, 1890 Institutions, 1994 Institutions, Hatch experiment stations, McIntire-Stennis schools, veterinary schools under the animal and health disease formula program authorized in NARETPA, and Hispanic-serving institutions. The maximum amount of a grant is \$500,000 and the costs of acquisition or depreciation of equipment purchased with a grant may not be charged as an indirect cost. (Section 715)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary and extend the authorization through 2007. (Section 7402)

(74) Availability of Competitive Grant Funds

The Senate amendment adds a new section 1469A to NARETPA to provide that funds made available to the Secretary to carry out any competitive agricultural research, education, or extension grant programs under NARETPA or any other Act shall be available for obligation for two fiscal years. (Section 718)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7217)

(75) Joint Requests for Proposals

The Senate amendment adds a new section 1473B to NARETPA to authorize the Secretary, in carrying out competitive agricultural research, education, or extension grant programs, to cooperate with other Federal agencies in issuing joint request for proposals, awarding grants, and administering grants, for similar or related research, education, or extension projects or activities. Under the provision, with respect to issuing joint requests for proposals, making awards, and administering grants, the Secretary and a cooperating agency each are given authority to: (1) transfer funds to the other; (2) delegate authority to the other; (3) and choose which agencies post-award grant administration regulations and indirect rates shall apply to grant awards made by the Secretary and the cooperating agency. Funds transferred may only be used in accordance with the laws authorizing the appropriation and to make grants only to recipients eligible to receive grants under such laws. The Secretary and cooperating agencies may establish joint peer review panels exempt from FACA to evaluate grant proposals.

Subsection (b) allows the Secretary to transfer funds to cooperating agencies subject to applicable laws.

Subsection (c) allows the Secretary to delegate her authority to an appropriate coordinating agency.

Subsection (d) provides the Secretary with authority to coordinate regulations and indirect rates with a cooperating agency.

Subsection (e) allows joint peer review panels to be established. (Section 719)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the authority to transfer appropriated funds between Federal Departments and Agencies and to prohibit authority to adopt "negotiated" indirect cost recovery rates. (Section 7403)

(76) Biosecurity Planning and Response Programs

The Senate amendment subsection (a) adds a new subtitle N – Biosecurity to NARETPA. Chapter 1 of the new subtitle (sections 1484 through 1486) deals with agriculture infrastructure security. Authorizations are provided of such sums as necessary through 2006 to establish an Agriculture Infrastructure Security Fund Account (the Fund) in the Treasury and an Agriculture Infrastructure Security Commission. New section 1484 sets forth definitions of "agricultural research facility," "Commission," and "Fund".

New section 1485 authorizes the establishment of the Fund. The Fund would be financed from any appropriations, proceeds from the sale of assets as provided for in this chapter, and gifts accepted as provided for in this chapter, and such amounts would remain available until expended. Subsection (b) sets for the purposes of the Fund as to provide funding to protect and strengthen the Federal food safety and agricultural infrastructure that— (1) safeguards against animal and plant diseases and pests; (2) ensures the safety of the food supply; and (3) ensures sound science in support of food and agricultural policy. Amounts in the Fund may be used by the Secretary for: (1) the costs of planning, design, development, construction, acquisition, modernization, leasing, and disposal of facilities, equipment, and technology used by USDA in carrying out programs related to the purposes specified in subsection (b) , notwithstanding the Federal Property and Administrative Services Act of 1949, or any other law that prescribes procedures for the procurement, use, or disposal of property or services by a Federal agency; (2) the costs of specialized services relating to the purposes specified in subsection (b); (3) the costs of cooperative arrangements (notwithstanding the Federal Grant and Cooperative Agreement Act) with State, tribal, and local governments, and other public and private entities to carry out programs related to the purposes specified in subsection (b); and (4) administrative costs at a rate of not more than 1 percent per fiscal year of amounts in the fund on October 1 of that fiscal year beginning in 2003. Amounts in the Fund may not be used to create any new full or part-time Federal employee positions. Notwithstanding the Federal Property and Administrative Services Act, the Secretary by sale may dispose of all or any part of any right or title in land, facilities, or equipment in the full control of the Department used for the purposes specified in subsection (b), with the exception of National Forest System land and land and facilities at the Beltsville Agricultural Research Center. The Secretary is authorized to accept gifts and bequests of funds property (real, personal, and intangible), equipment, services, and other in-kind contributions from any public or private source to carry out the purposes specified in subsection (b). For the purposes of gifts, the Secretary shall not consider a State, local, or tribal government, other public entity, or college or university as a prohibited source under USDA gift acceptance policies, and the Secretary may accept gifts from private entities or individuals that would be considered prohibited sources only if the Secretary determined it was in the public interest to accept such gifts.

New section 1486 authorizes the Secretary to establish the Agriculture Infrastructure Security Commission to: (1) advise the Secretary on the uses of the Fund; (2) to review all agricultural research facilities for research importance and importance to agriculture infrastructure security, (3) to identify any agricultural research facility that should be closed, realigned, consolidated, or modernized to carry out the research agenda of the Secretary and to protect agriculture infrastructure security; (4) to develop recommendations concerning agricultural research facilities; and (5) to evaluate the agricultural research facilities acquisition and modernization system used by USDA and make recommendations for improvement to that system based on that evaluation. An "agricultural research facility" as defined in new section 1484 means a facility— "(A) at which agricultural research is regularly carried out or proposed to be carried out; and (B) that is--(i)(I) an Agricultural Research Service facility; (II) a Forest Service facility; or (III) an Animal and Plant Health Inspection Service facility; (ii) a Federal agricultural facility in the process of being planned or being constructed; or (iii) any other facility under the full control of the Secretary." The Commission is to use the 10-year strategic

plan prepared by the Strategic Planning Task Force established under section 4 of the Research Facilities Act to assist it in carrying out its duties. The Commission shall be composed of 15 voting members appointed by the Secretary that represent a balance of the public and private sectors and that have combined expertise in facilities development, modernization, construction, security, consolidation, and closure; plant diseases and pests; animal diseases and pests; food safety; biosecurity; the needs of farmers and ranchers; public health; State, local, and tribal government; and any other area related to agriculture infrastructure security, as determined by the Secretary. Nonvoting members of the Commission shall include the Secretary, four representatives appointed by the Secretary of HHS, 1 each from PHS, CDC, FDA, and NIH; one representative appointed by the Attorney General; one representative appointed by the Director of Homeland Security; and not more than four USDA representatives appointed by the Secretary. The term of office for Commission members is 4 years. The Commission is exempted from FACA, but open meetings and records are required with exceptions provided for purposes of national security. Not later than 240 days after enactment of this Act, and each June 1 thereafter, the Commission shall submit a report of its findings and recommendations to the Committees on Agriculture and Appropriations of the House and Senate, and the Secretary shall provide a written response to that report within 90 days as to the manner and extent to which she will implement the recommendations made. The report, and the Secretary's response, shall be publicly available unless the Secretary or the Commission determine that the report or response, or any portion thereof, shall not be released in the interest of national security, and any portion so classified shall not be releasable under FOIA. Provision is made for compensation of non-Federal voting members at a rate equivalent to GS-15 and travel to be paid at the rate for a Federal employee. The Secretary shall provide the Commission with any personnel or other resources as the Secretary determines appropriate.

New chapter 2 of the new subtitle N includes two new sections for other biosecurity programs.

New section 1487 provides a special supplemental authorization of such sums as are necessary for biosecurity planning and response through 2006. Funds provided under section 1487 may be used in accordance with any authority available to the Secretary to carry out agricultural research, education, and extension activities (including competitive grants) necessary: (1) to reduce the vulnerability of the United States food and agricultural system to chemical or biological attack; (2) to continue joint research initiatives between the Agricultural Research Service, universities, and industry on counterbioterrorism efforts; (3) to make competitive grants to universities and qualified research institutions for research on counterbioterrorism; and (4) to counter or otherwise respond to chemical or biological attack..

New section 1488 provides an authorization of \$100 million per year through 2006 for a competitive research facilities construction grants program for land-grant colleges and universities to enhance the security of agriculture in the United States against threats posed by bioterrorism. To be eligible to receive a grant, a land-grant institution must have (1) demonstrated expertise in the area of animal and plant diseases; (2) substantial animal and plant diagnostic laboratories; and (3) well-established working relationships with the agricultural industry and farm and commodity organizations. In making grants, the Secretary shall give priority to institutions with demonstrated expertise in (1) animal and plant disease prevention; (2) pathogen and toxin mitigation;

(3) cereal disease resistance; (4) grain milling and processing; (5) livestock production practices; (6) vaccine development; (7) meat processing; (8) pathogen detection and control; or (9) food safety. An institution may not receive more than \$10,000,00 of grants under this section per fiscal year, and the Federal share of any construction project shall not exceed 50 percent. Finally, subsection (b) of section 723 of the bill includes a sense of Congress that funding for ARS, APHIS, and other USDA agencies with biosecurity responsibilities should be increased as necessary to improve the capacity of the agencies to conduct research and analysis of, and respond to, bioterrorism and animal and plant diseases.(Section 723)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting the Agriculture Infrastructure Security Fund and the Agriculture Infrastructure Security Commission. The Conference adopts the Senate program for agriculture bioterrorism research facilities with an amendment authorizing grants for expansion and security upgrades of agriculture research facilities. (Section 7221)

The Managers encourage the Secretary to give priority in awarding grants for the expansion of biosecurity research facilities to those universities or institutions which have demonstrated expertise in the area of animal and plant diseases; substantial animal and plant diagnostic laboratories; and well-established working relationships with the agriculture industry and farm and commodity organizations.

(77) Rural Electronic Commerce Extension Program

The Senate amendment adds a new section 1670 to the FACT Act providing an authorization for a Rural Electronic Commerce Extension Program. The Secretary would be required to establish within CSREES an Office of Rural Electronic Commerce to carry out this program. The purposes of the program are: (1) to expand and enhance electronic commerce practices and technology to be used by small businesses and microenterprises in rural areas; (2) disseminate information and expertise through a cooperative extension service clearinghouse in rural areas; (3) disseminate management, scientific, engineering, and technical information to small businesses in rural areas through the extension program; and (4) use, when appropriate, the expertise, technology, and capabilities of other organizations, including State and local governments, Federal agencies, institutions of higher education, nonprofit organizations, small businesses and microenterprises that have experience in electronic commerce practice and technology, and the development centers established under this section. In carrying out this program, the Secretary shall: (1) provide leadership, support, and coordination for the program; (2) establish policies, practices, and procedures to assist rural communities in the adoption and use of electronic commerce techniques; (3) identify and strengthen existing mechanisms designed to assist rural areas in the adoption and use of electronic commerce techniques; (4) provide grants to fund projects and activities under the program; and (5) establish a clearinghouse system for States, communities, and businesses to obtain information on best practices, technology transfer, training, education, adoption, and use of electronic commerce in rural areas.

The Secretary shall make grants to the North Central Regional Center for Rural Development, the Northeast Regional Center for Development, the Southern Rural Development Center, and a development center in the Western Region, as determined by the State Extension Program Directors in the Western Region, to (1) assemble regional

expertise, and develop innovative education programs, that may be adapted and refined by State extension programs; (2) train State-based cooperative extension agents to deliver rural electronic commerce education programs; and establish networks among universities, local governments, and private industries to focus on regional economic issues.

The Secretary also is authorized to make competitive grants to cooperative extension programs at land-grant institutions, or consortia of such institutions), to develop and facilitate nationally innovative rural electronic commerce business strategies, and to assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies. The provision also includes selection criteria for grant awards. As a condition of funding, during the years of funding under a grant the recipient must provide from non-Federal sources 50 percent (25 percent if the grant recipient serves low-income or minority-owned businesses or microenterprises of the estimated capital and annual operating and maintenance costs of the extension program, and after expiration of the grant funding period the recipient must provide 100 percent of such costs from non-Federal sources. Awards are limited to \$900,000 for an individual land-grant institution, either individually or as a member of a consortium, and funds awarded to a consortium must be shared equally among its members. The provision also establishes an evaluation panel and process to evaluate projects and activities funded under the program beginning one year after grant award. The Secretary is required to report to the Agriculture Committees on activities under this section 2 years after the date of enactment.

The program is authorized at \$60,000,000 each fiscal year through 2006, with \$20,000,000 of that set aside for funding the regional development centers. The Secretary is authorized to use up to 2 percent of funds made available for administrative costs to carry out this section. (Section 733)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment clarifying the Senate provision and expanding the eligibility for grants to include colleges and universities with agricultural or rural development programs. (Section 6202)

The Committee authorizes \$60 million to establish a Rural Electronic Commerce Extension Program within the Cooperative State Research, Education, and Extension Service. Electronic commerce represents an opportunity for small businesses and micro enterprises in the domestic and international market, but there is currently no mechanism available in rural areas to enable individuals or organizations to both learn and take advantage of innovative technologies and business practices. The United States has a strong interest in ensuring that small businesses and micro enterprises in rural areas participate in electronic commerce as it will promote productivity and economic growth throughout the United States. The specific objectives of the program are: 1) expand and enhance electronic commerce practices and technology to be used by small businesses and micro enterprises in rural areas; 2) disseminate information and expertise through a cooperative extension service clearinghouse; 3) disseminate management, scientific, and technical information to small businesses and micro enterprises in rural areas through the extension program, and 4) use, when appropriate, the expertise, technology, and capabilities of other institutions and organizations – examples being state and local governments, Federal departments and agencies, institutions of higher education, non-profit organizations, small businesses and micro enterprises with previous experience in

this area, and regional development centers – to achieve the stated objectives. The program will be competitive and merit-based, with grants being provided to cooperative extension service programs at land-grant colleges and universities (or consortia of land-grant colleges and universities) and to colleges and universities with agriculture or rural development programs. Using language in the legislation as guidelines, the Cooperative State Research, Education, and Extension Service shall establish appropriate criteria for the submission, evaluation, and funding of applications for grants to implement projects and activities for the program and shall be responsible for evaluating, ranking, and selecting grant applications.

(78) Organic Agricultural Research and Extension Initiative

The Senate amendment amends section 1672B of the FACT Act to require the Secretary to consult with the National Organics Standards Board as well as the REE Board in making grants, and to add the following purposes for which grants may be awarded:

- "(4) determining desirable traits for organic commodities using advanced genomics, field trials, and other methods;
- (5) pursuing classical and marker-assisted breeding for publicly held varieties of crops and animals optimized for organic systems;
- (6) identifying marketing and policy constraints on the expansion of organic agriculture; and
- (7) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and to socioeconomic conditions." (Section 736, 231, 232)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include breeding, marketing, and policy research as priority areas and include \$3 million in new mandatory funding from 2003 through 2007. (Section 7218)

It is the intent of the Managers that these funds shall be allocated for high priority aspects of organic agricultural systems research, education, and extension. Priority concerns encompass biological, physical, and social sciences (including economics). The authorization of these funds shall not preclude or preempt the allocation of funds for other organic farming research, education, and extension programs under any other competitive or special grants programs, integrated activity, or formula funding. Rather, it is the intent of the Managers that organic agriculture be recognized as a legitimate priority of all Research, Education, and Economics programs, and should be recognized accordingly in appropriate USDA Research, Education and Extension program plans and requests for proposals.

(79) Grants for Youth Organizations

The Senate amendment amends AREERA by adding a new section 410 providing \$8 million in mandatory money from CCC (to remain available until expended), and such sums as necessary for 2002 through 2006, for the Secretary, acting through CSREES, to make grants to the Girl Scouts, the Boy Scouts, the National 4-H Council, and the National FFA organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns, and for purposes of the 4-H Centennial under Pub. Law 107-19. (Section 749)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007.

(80) Senior Scientific Research Service

The Senate amendment adds a new section to subtitle B of AREERA establishing within USDA a Senior Scientist Research Service of not more than 100 members. To be eligible to be appointed to the Service by the Secretary, an individual must (1) have conducted outstanding research in the field of agriculture or forestry, (2) have a PhD, and meet OPM qualification standards for a GS-15 position. The Secretary may appoint and employ a member of the Service with regard to Federal civil service laws regarding competitive service appointments, retention preferences, performance appraisal and performance actions, pay rates and classification, and adverse actions, except that a member of the Service will have the same rights as a GS-15 appointee to appeal to the Merits Systems Protection Board or the Office of Special Counsel. The Secretary must develop a performance appraisal system for the Service that provides for systematic appraisals and encourages excellence. The Secretary shall set compensation in a range between a GS-15 and an ES-I appointment, with an exception to ES-I maximum for a rate approved by the President by law. A member appointed to the Service from a prior position at an institution of higher education who retains the right to make contributions to that institution's retirement system may request that the Secretary contribute an amount not to exceed 10 percent of his pay to that system, but such a member shall not earn service credit under Federal law for time served in the Service except for purposes crediting annual leave. Any person involuntarily separated from the Service without cause may be appointed by the Secretary to a career appointment at the GS-15 level in the competitive service, unless that person was not a career appointee in the civil service of excepted service prior to his appointment to the Service, in which case that person's appointment following separation shall be to the excepted service for a term not to exceed 2 years. (Section 750B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7219)

(81) Carryover

The Senate amendment amends the Hatch Act to allow a State agricultural institution to carryover the balance of any fiscal year's allocation of funding remaining at the end of the fiscal year to the next fiscal year, and if that balance is not spent in the succeeding fiscal year, an amount equivalent to that remaining shall be deducted from the following fiscal year allocation to that State. (Section 751)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7202)

(82) Reporting of Technology Transfer Activities

The Senate amendment amends the Hatch Act to require a State to include in its plan of work a description of the technology transfer activities conducted with respect to federally-funded agricultural research. (Section 752)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to require land-grant universities to include descriptions of technology transfer activities in any annual or other regular reports made to the Secretary regarding research activities funded by the Department.

(83) Compliance with Multistate and Integration Requirements

The Senate amendment amends the Hatch and Smith-Lever Act requirements for multistate extension and integrated research and extension activities to require:

(1) that in order to receive Smith-Lever Act funding a State must expend an amount equal to not less than 25 percent of Smith-Lever Act funds received by the State in a prior year on multistate activities, and in determining compliance with that requirement the Secretary shall include all cooperative extension funds expended by the State in the prior year, including Federal, State, and local funds; and

(2) that in order to receive Hatch and Smith-Lever Act funding, a State must expend an amount equal to not less than 25 percent of Smith-Lever Act and Hatch Act of 1887 funds received by the State in a prior year on integrated research and extension activities, and in determining compliance with that requirement the Secretary shall include all cooperative research and extension funds expended by the State in the prior year, including Federal, State, and local funds. This amendment would be effective October 1, 2002. (Section 753)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(84) Authorization Percentages for Research and Extension Formula Funds

The Senate amendment subsection (a) amends section 1444 of NARETPA to increase the authorization level for 1890 Institutions extension appropriations from not less than 6 percent of the amount appropriated annually for extension at the 1862 Institutions under the Smith-Lever Act to not less than 15 percent of the amount appropriated annually under the Smith-Lever Act, and strikes obsolete language. Subsection (b) amends section 1445 of NARETPA to increase the authorization level for 1890 Institutions research appropriations from not less than 15 percent of the amount appropriated annually for research at the 1862 Institutions under the Hatch Act of 1887 to not less than 25 percent of the amount appropriated annually under the Hatch Act of 1887, and strikes obsolete language. (Section 757)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7203)

It is the intent of the Managers that increased formula funding for 1890 institutions be the mechanism for reaching this increased ratio, rather than a redistribution of the current limited formula funds.

(85) Carryover

The Senate amendment provides that in the same manner as the amendment made by section 751 for 1862 Institutions, this provision amends section 1445 of NARETPA to allow an 1890 Institution to carryover the balance of any fiscal year's allocation of funding remaining at the end of the fiscal year to the next fiscal year, and if that balance is not spent in the succeeding fiscal year, an amount equivalent to that remaining shall be deducted from the following fiscal year allocation to that 1890 Institution. (Section 758)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7204)

(86) Reporting of Technology Transfer Activities

The Senate amendment provides that in the same manner as the amendment made by section 752 for 1862 Institutions, this section amends section 1445 of NARETPA to require an 1890 Institution to include in its plan of work a description of the technology transfer activities conducted with respect to federally-funded agricultural research. (Section 759)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to require land-grant universities to include descriptions of technology transfer activities in any annual or other regular reports made to the Secretary regarding research activities funded by the Department.

(87) Priority-Setting Process

The Senate amendment amends requirement in section 102(c)(1) of AREERA for land-grant colleges to obtain stakeholder input to require that the process for obtaining that input "reflects transparency and opportunity for input from producers of diverse agricultural crops and diverse geographic and cultural communities." (Section 771)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(88) Termination of Certain Schedule A Appointments

The Senate amendment provision provides for the termination 60 days after enactment of Schedule A, dual Federal-State appointments, of employees working in agricultural extension programs at 1862 Institutions, 1890 Institutions, and the University of the District of Columbia. An individual whose appointment is terminated but who remains employed in the agricultural extension program will continue to be eligible, to the same extent as before enactment of this provision, to participate in the Federal Employee Health Benefits Program, the Federal Employee Group Life Insurance Program, the Civil Service Retirement System, the Federal Employee Retirement System, and the Thrift Savings Plan, and will continue to receive Federal civil service employment credit to the same extent the individual was receiving that credit prior to enactment of this provision, as long as the employing college or university continues to fulfill the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits. If an individual changes employment from an agricultural extension program at one institution to that in another, the individual will continue to receive such benefits as long as the second institution fulfills its administrative and financial responsibilities and the second institution had employed another person in the same position within 120 days before the date of employment of the individual. (Section 772)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment changing the effective date to January 31, 2003, and adding "federal long-term care benefits" to the list of covered benefits. (Section 7220)

(89) Risk Management Education for Beginning Farmers and Ranchers

The Senate amendment amends the risk management education grant program in section 524(a)(3) of the Federal Crop Insurance Act to give the Secretary authority to target grants to programs specifically for beginning farmers and ranchers, and makes a technical amendment to section 524(b) of that Act. (Section 785)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(90) Joint Subcommittee on Aquaculture

The Senate amendment extends authorization for National Aquaculture Act of 1980 through 2006. (Section 786)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7139)

Subtitle F – New Authorities (Sections 791-798D)

(91) Definitions

The Senate amendment defines "Department" and "Secretary" for purposes of the subtitle. (Section 791)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7401)

(92) Regulatory and Inspection Research

The Senate amendment authorizes the Secretary to use a public or private source, and requires the Secretary to use the most practicable source to provide timely cost-effective means of providing the research, to meet the urgent applied research needs of an inspection or regulatory agency of the Department (defined as APHIS, FSIS, GIPSA, and AMS) in carrying out agricultural marketing programs; programs to protect the animal and plant resources of the United States; and education programs or special studies to improve the safety of the food supply of the United States. Provision also requires the Secretary to establish guidelines to prevent any conflict of interest that may arise if an inspection or regulatory agency obtains research from a Federal agency the work or technology transfer efforts of which are funded in part by an industry subject to the jurisdiction of the inspection or regulatory agency. (Section 792)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(93) Emergency Research Transfer Authority.

The Senate amendment, in addition to any transfer authority she may have, authorizes the Secretary to transfer up to 2 percent of any appropriation account of the Department for agricultural research, extension, marketing, animal and plant health, nutrition, food safety, nutrition education, or forestry programs to any other appropriation account of the Department for emergency research, extension, or education activities needed to address imminent threats to animal and plant health, food safety, or human nutrition, including bioterrorism. Such transfers are limited by three conditions: (1) the Secretary must determine the need is so imminent that the need will not be timely met by annual, supplemental, or emergency appropriations; (2) the aggregate total of such transfers cannot exceed \$5 million per fiscal year; and (3) transfers must be approved by

OMB. (Section 793)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(94) Review of Agricultural Research Service

The Senate amendment requires the Secretary to conduct a review of the purpose, efficiency, effectiveness, and impact on agricultural research of ARS, using persons outside the Department, with a report to be submitted to the Agriculture Committees by September 30, 2004; and provides that Secretary shall use no more than 0.1 percent of appropriations made available to ARS in fiscal years 2002 through 2004 to carry out the study. (Section 794)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment creating a task force appointed by the Secretary to conduct a review of ARS and examining the merits of establishing National Institutes focused on disciplines important to the progress of food and agriculture sciences. The report is to be submitted one year after enactment of this legislation. (Section 7404)

The sciences related to plant biology and agriculture have contributed greatly to human welfare. The gains in the next decades have the potential to be astonishing. The challenge is to establish appropriate mechanisms, with adequate funding, to ensure that the United States is home to highest quality research and is able to maximize its benefits to its economy. In 1999, food and agriculture accounted for 16.4% of the GDP (or \$1.5 trillion) yet attracted less than two percent of the federal research budget. In real terms, the U.S. now spends less on food and agricultural research than was spent in 1978.

The Managers believe a new model for plant and agricultural research might be patterned after the highly successful biomedical research conducted by the National Institutes of Health (NIH). The mechanisms employed by NIH and the National Science Foundation (NSF) have advanced science of the highest quality, attracted the best young scientists to careers in research and teaching, and provided a stream of discoveries that has been rapid and highly beneficial to society. The Managers intend that any new research institute would supplement, not supplant, the successful programs of USDA and other existing federal research programs. As such, the conferees urge the Secretary to place high priority in establishing a task force of members, the majority of which should be from the private sector, including institutions of higher education, that have extensive background and preeminence in field of plant and agricultural sciences research. In addition, the Secretary is urged to designate a Chairperson that has significant leadership experience in educational and research institutions and in depth knowledge of the research enterprises of the United States in leading the evaluation of the merits of establishing a National Institutes for Plant and Agricultural Sciences and provide recommendations to the Committees. In addition, the task force is charged with conducting a separate review of the purpose, efficiency, effectiveness, and impact of agricultural research conducted by the Agricultural Research Service. Together, these two separate reports should provide a roadmap for the future of the federal government concerning plant and agriculture research and the potential benefits that could be realized.

(95) Technology Transfer for Rural Development

The Senate amendment directs the Secretary, through RBS and ARS, to establish a program to promote USDA tech transfer opportunities to rural businesses and residents through a website featuring information on such technologies, an annual joint program for State economic development directors and Department rural development directors regarding such opportunities, and programs at each ARS lab at least biennially, with participation of other Federal labs as appropriate. Funding for the program is to come from amounts available to ARS and amounts available to RBS for salaries and expenses. (Section 795)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Rural Business-Cooperative Service to promote to rural businesses and residents the availability of technology transfer opportunities with the Agricultural Research Service (ARS), research facilities of the Forest Service, and other research activities of the Department. The Managers also expect ARS to continue its efforts to promote and publicize technology transfer opportunities available to the private sector, and especially those opportunities that would provide employment in rural areas.

(96) Beginning Farmer and Rancher Development Program.

The Senate amendment provides \$15 million in mandatory money in each of fiscal years 2002 through 2006 for the Secretary to carry out a beginning farmer and rancher development program to provide training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers. A "beginning farmer or rancher" is defined as a person that has not operated a farm or ranch, or operated one for less than 10 years, and meeting such other criteria as the Secretary prescribes.

The program has three parts:

(1) The Secretary may make competitive grants to new and established local and regional training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers, including programs and services (as appropriate) relating to: (A) mentoring, apprenticeships, and internships; (B) resources and referral; (C) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers; (D) innovative farm and ranch transfer strategies; (E) entrepreneurship and business training; (F) model land leasing contracts; (G) financial management training; (H) whole farm planning; (I) conservation assistance; (J) risk management education; (K) diversification and marketing strategies; (L) curriculum development; (M) understanding the impact of concentration and globalization; (N) basic livestock and crop farming practices; (O) the acquisition and management of agricultural credit; (P) environmental compliance; (Q) information processing; and (R) other similar subject areas. Entities eligible to receive grants include collaborative State, local, tribal or regionally-based networks or partnerships of private or public entities including State cooperative extension services, Federal, State, and tribal agencies, community-based and nongovernmental organizations, colleges and universities (including community colleges) and others as determined by the Secretary. Grants are for 3-years, are subject to a 25% matching requirement, and not less than 25 percent of funds used to carry out the grant program must be set aside to support programs that address needs of limited resource beginning farmers and ranchers, socially disadvantaged beginning farmers and ranchers, and farmworkers desiring to become farmers or ranchers.

(2) The Secretary is authorized to establish teams to develop curricula and conduct educational programs and workshops for beginning farmers and ranchers tailored to diverse crop and regional areas. In establishing such teams, the Secretary can use the services of specialists in beginning farmer and rancher training and USDA employees who can offer program expertise. The Secretary is authorized to enter into cooperative agreements with the same entities that are eligible for the grants to carry out team programs.

(3) The Secretary is required to establish an online clearinghouse to make curricula, training materials, and online courses available for beginning farmers and ranchers.

The Secretary is required to obtain stakeholder input from beginning farmers and ranchers; national, state, tribal, and local organizations or other persons with expertise in operating beginning farmer and rancher programs; and the Advisory Committee on Beginning Farmers and Ranchers.

The provision allows for participation of non-beginning farmers and ranchers in these programs to the extent that the Secretary determines it will not detract from the primary purpose of beginning farmer and rancher education.

In addition to the mandatory funding provided, the Secretary is authorized to collect and use fees for the delivery of programs or workshops by beginning farmer and rancher education teams or by the online clearinghouse, and the Secretary is authorized to receive contributions under cooperative agreements for program delivery by education teams. Four percent of funds used for grants may be used by the Secretary for administrative costs. Funds provided remain available for obligation for two fiscal years. (Section 796)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making the 4 % set-aside for administrative costs apply only to competitive grants appropriations and making the mandatory funding subject to appropriations. (Section 7405)

(97) Sense of Congress Regarding Doubling of Funding for Agricultural Research

The Senate amendment expresses sense of Congress that food and agricultural research funding should be doubled over next five years. (Section 797)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7406)

(98) Rural Policy Research

The Senate amendment provides \$15 million in mandatory money in each of fiscal years 2002 through 2006 for the Secretary to make competitive research grants for applied and outcome oriented research and policy research and analysis of rural issues relating to: (1) rural sociology; (2) effects of demographic change, including aging population, outmigration, and labor resources; (3) needs of groups of rural citizens, including senior citizens, families, youth, children, and socially disadvantaged individuals; (4) rural community development; (5) rural infrastructure, including water and waste, community facilities, telecommunications, electricity, and high-speed broadband services; (6) rural business development, including credit, venture capital, cooperatives, value-added enterprises, new and alternative markets, farm and rural enterprise formation, and entrepreneurship; (7) farm management, including strategic planning, business and marketing opportunities, risk management, natural resources and

environmental management, organic and sustainable farming systems, and intergenerational transfer strategies; (8) rural education and extension programs, including methods of delivery, availability of resources, and use of distance learning; and (9) rural health, including mental health, on-farm safety, and food safety.

The Secretary must seek stakeholder input in making grants, and ensure that grants will provide high-quality research of use to public policymakers and private entities in making decisions that affect development in rural areas.

Eligible grantees include individuals, colleges and universities, a State cooperative institution, a community college, a nonprofit organization, institution, or association, a business association, or a regional partnership of public and private entities. Grant terms may be up to 5 years. The Secretary may establish a matching requirement, but a grant to a business association is subject to a 100 percent match. Up to four percent of funds may be used by the Secretary for administrative costs. Funds provided remain available for two fiscal years. (Section 798)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(99) Priority for Farmers and Ranchers Participating in Conservation Programs

The Senate amendment requires the Secretary, in carrying out new on-farm research or extension programs or projects authorized by this bill, amendments made by this bill, and any later enacted law, to give priority to carrying out such programs or projects using farms and ranchers of farmers and ranchers that participate in Federal agricultural conservation programs. (Section 798A)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(100) Organic Production and Market Data Initiatives

The Senate amendment requires the Secretary to ensure that segregated data on the production and marketing of organic agricultural products is included in the ongoing baseline of data collection regarding agricultural production and marketing. (Section 798B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7407)

(101) Organically Produced Product Research and Education

The Senate amendment requires the Secretary, in consultation with the Advisory Committee on Small Farms, to submit a report to the Agriculture Committees by December 1, 2004 on:

(1) the impact on small farms of the implementation of the national organic program; and

(2) the production and marketing costs to producers and handlers associated with transitioning to organic production. (Section 798C)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(102) International Organic Research Collaboration

The Senate amendment requires the Agricultural Research Service and the National Agricultural Library to facilitate access by research and extension professionals to organic research conducted outside the United States. (Section 798D)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7408)

(103) Report on Producers and Handlers of Organic Agricultural Products

The Senate amendment provides for a report to be submitted not later than 1 year after funds are made available to carry out this section. (Section 798E)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7409)

TITLE VIII -- FORESTRY INITIATIVES

(1) Repeal of Forestry Incentives Program (FIP) and Stewardship Incentive Program (SIP).

The House bill repeals the Forestry Incentives Program and the Stewardship Incentives Program. (Sec. 801)

The Senate amendment reauthorizes the Forestry Incentives Program through 2006. The Senate amendment contains no comparable provision regarding the Stewardship Incentives Program. (Sec. 804)

The Conference substitute adopts the House provision. (Sec. 801)

(2) Establishment of New Cost Share Assistance Program.

The House bill amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 4. (Sec. 802)

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new program after section 6. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(3) Findings.

The House bill sets forth Congressional findings with respect to dependence on private non-industrial forest lands, demand for assistance from owners of non-industrial private forest land, environmental benefits of good stewardship of forest land, economic benefits resulting from non-industrial private forest lands, wildfire threats, and development pressure faced by owners of non-industrial private forest land. (Sec. 802(a))

The Senate amendment sets forth Congressional findings with respect to dependence on private non-industrial forest lands, demand for assistance from owners of non-industrial private forest land, environmental benefits of good stewardship of forest land, economic benefits resulting from non-industrial private forest lands, wildfire threats, development pressure faced by owners of non-industrial private forest land, federal and state cooperation in forest fire prevention, difficulty for owners of non-industrial private forest land to invest in the management of long-rotation forest stands, and the benefits of comprehensive, multi-resource planning assistance to landowners. (Sec. 806(a)(1))

The Conference substitute deletes both provisions.

(4) Purpose.

The House bill describes the purpose of the new section as: (1) strengthening the commitment of the Secretary to sustainable forest management, and (2) establishing a coordinated and cooperative federal, state and local sustainable forestry program for non-industrial private forest land. (Sec. 802(b))

The Senate amendment describes the purpose of the new section as: (1) strengthening the commitment of the Secretary to sustainable forest management, and (2) establishing a coordinated and cooperative federal, state and local sustainable forestry program for non-industrial private forest land. (Sec. 806(a)(2))

The Conference substitute adopts the Senate provision. (Sec. 806(a)(2))

(5) Forest Land Enhancement Program.

The House bill establishes a Forest Land Enhancement Program by inserting a new section 4 in the Cooperative Forestry Assistance Act of 1978. (Sec. 802(c))

The Senate amendment establishes a Sustainable Forest Management Program by inserting a new section 6A in the Cooperative Forestry Assistance Act of 1978. (Sec. 806(b))

The Conference substitute adopts the House provision. (Sec. 802 (c))

(6) Definitions.

The House bill defines: (1) non-industrial private forestland, (2) owner, (3) Secretary, and (4) state forester. (Sec. 802)

The Senate amendment defines: (1) committee, (2) Indian tribe, (3) program, (4) non-industrial private forestland, (5) owner, and (6) state forester. (Sec. 806)

The Conference substitute adopts the House provision with amendment to include definitions for the terms Committee and Indian Tribe.

(7) Establishment.

The House bill (1) directs the Secretary to establish a Forest Land Enhancement Program (FLEP) for the purposes of providing financial, technical, educational, and related assistance to State Foresters to assist private landowners in actively managing their land through the utilization of management expertise, financial assistance and educational programs; (2) directs the Secretary to administer the program through NRCS; (3) directs the Secretary to implement the program in coordination with the State Foresters. (Sec. 802)

The Senate amendment (1) directs the Secretary to establish a Sustainable Forestry Management Program for the purposes of providing financial assistance to State foresters, and encouraging the long-term sustainability of non-industrial private forestland in U.S. by assisting owners in actively managing land and related resources through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs; (2) directs the Secretary to administer the program through the State Foresters, in coordination with the Committees, and in consultation with Federal State, and local natural resource management agencies, institutions of higher education and a broad range of private sector interests. (Sec. 806)

The Conference substitute the Senate provision. (Sec. 806)

(8) Program Objectives.

The House bill directs the Secretary to target resources to achieve a list of objectives including: (1) making investments in practices to establish, restore, protect, manage, maintain and enhance the health and productivity of non-industrial private forest land, (2) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed, (3) reducing the risks and helping to restore, recover and mitigate damage caused by fire, insects, invasive species, disease, and weather, (4) increasing and enhancing carbon sequestration, (5) enhancing implementation of agro forestry practices, and (6) maintaining and enhancing the forest land base and leveraging State and local financial and technical assistance. (Sec. 802)

The Senate amendment directs the Secretary to allocate the resources among the states (in accordance with the distribution formula described below) to encourage: (1) the investment in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of non-industrial private forest land, and (2) the occurrence of afforestation, reforestation, improvement of poorly stocked stands, practices necessary to improve seedling growth and survival, and growth enhancement practices as needed to enhance and sustain the long-term productivity of timber and non-timber forest resources to meet public demand for forest resources, provide environmental benefits, protect riparian buffers and wetlands, maintain and enhance fish and wildlife habitat, enhance soil, air and water quality, reduce soil erosion and maintain soil quality, maintain and enhance the forest land base, reduce the threat of catastrophic wildfires, and preserve aesthetic quality and opportunities for outdoor recreation. (Sec. 806)

The Conference substitute adopts the House provision with minor amendments.

(9) Eligibility.

The House bill makes an owner of non-industrial private forest land eligible for cost-share assistance if the owner: (1) agrees to develop and implement a forest plan developed in coordination with and/or approved by the State forester, state official, or private sector program in consultation with the State Forester, (2) agrees to implement the plan for a period of 10 years unless the State Forester approves a modification to such plan, and (3) meets acreage restrictions determined by the State Forester in conjunction with the State Forest Stewardship Coordinating Committee. (Sec. 802)

The Senate amendment (a) makes an owner of non-industrial private forest land eligible for cost-share assistance if the owner: (1) develops a management plan that addresses site-specific activities and practices and is approved by the State Forester, (2) agrees to implement the plan for at least 10 years unless the State Forester approves a modification to the management plan, and (3) owns not more than 1,000 acres; and (b) creates an exception to the above acreage restriction requirement for owners with more than 1,000 acres but less than 5,000 acres where the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the owner's participation. (Sec. 806)

The Conference substitute adopts the House provision with minor changes.

(10) State Priorities.

The House bill allows the Secretary to develop State priorities for cost-share assistance in consultation with the State Forester and the State Forest Stewardship Coordinating Committee. (Sec. 802)

The Senate amendment (1) directs the State Forester and the Committee of the State to develop and submit to the Secretary a 5-year plan that describes the funding priorities of the state and makes this requirement a condition of receipt of funding under the Sustainable Forest Management program; (2) requires the state priority plan to include documentation of public participation in the development of the plan; (3) requires the Secretary to ensure, to the maximum extent practicable, that the need for expanded technical assistance programs for owners is met in the annual funding priorities of each state. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes.

(11) Development Of Plan.

The House bill makes a landowner eligible for cost-share assistance for the development of a forest management plan required to participate in the FLEP. (Sec. 802)

The Senate amendment requires a landowner to submit a plan to the State Forester that is prepared by a professional resource manager, identifies and describes projects and activities to protect certain environmental qualities in a manner that is compatible with the objectives of the owner, addresses criteria established by the State and Committee, and applies to the portion of the land on which any project or activity funded under the program will be carried out. In addition, the landowner must also agree that all projects and activities conducted on the land will be consistent with the management plan. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes. (Sec. 806)

(12) Approved Activities.

The House bill directs the Secretary, in consultation with the State Forester and State Forest Stewardship Coordinating Committee, to develop a list of approved forest activities and practices that will be eligible for cost-share assistance under the FLEP within each state. In developing this list, the Secretary is required to attempt to achieve the establishment, restoration, management, maintenance and enhancement of forests and trees for the following: sustainable growth and management for timber production, water quality, energy conservation, habitat, invasive species control, hazardous fuels reduction, development of forest or stand management plans and other activities approved by the Secretary. (Sec. 802)

The Senate amendment requires the Secretary, in consultation with the State forester and appropriate committee, to develop a list of approved forest activities and practices eligible for cost-share assistance. Approved activities may include: (1) the establishment, management, maintenance and restoration of forests for shelterbelts, windbreaks, aesthetic quality and other conservation purposes, (2) sustainable growth and management for timber production, (3) the protection of water quality, (4) the preservation, restoration or development of habitat, (5) invasive species control, (6) the conduct of other management activities such as hazardous fuels reduction that reduce the risks to forests posed by fire, (7) the development of management plans, (8) the acquisition of permanent conservation easements, and (9) the conduct of other activities approved by the Secretary. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes including an amendment to strike the acquisition of permanent easements as an eligible

activity.

(13) Reimbursement Of Eligible Activities.

The House bill (1) directs the Secretary to share the cost of implementing the approved activities that the Secretary determines are appropriate to carry out the Forest Land Enhancement Program; (2) directs the Secretary to determine the appropriate reimbursement rate for cost-share payments and the schedule for making such payments; (3) prohibits the Secretary from making cost-share payments in an amount that exceeds 75% of the total cost, or a lower percentage as determined by the State forester; (4) directs the Secretary to determine the maximum payment made to any one owner . (Sec. 802)

The Senate amendment allows the Secretary to provide cost-share assistance to an owner to develop a sustainable forest management plan.

The Senate amendment prevents an owner from receiving any cost-share assistance for management of non-industrial private forest land if the owner receives assistance for that land under the FIP, SIP or any conservation program administered by the Secretary.

The Senate amendment directs the Secretary, in consultation with the State forester, to determine the rate and timing of cost-share payments.

The Senate amendment limits the amount of a cost-share payment to the lesser of: 75% of the total cost of implementing the project or activity or such lesser percentage of the total cost of implementing the project or activity as is determined by the appropriate State forester; and requires the Secretary to determine the maximum aggregate amount of cost-share payments that each owner may receive. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(14) Recapture.

The House bill directs the Secretary to establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement any approved activity for which the owner received cost-share payments under the Forest Land Enhancement Program. (Sec. 802)

The Senate amendment directs the Secretary to establish a procedure to recapture cost-share payments in any case in which the recipient fails to implement a project or activity in accordance with the management plan or comply with any requirement of Sustainable Forest Management Program. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(15) Distribution.

The House bill directs the Secretary to consider the following in distributing funds to the states under the Forest Land Enhancement program: the number of owners eligible in each state; demand for timber; demand for agro forestry; need to improve forest health, etc. (Sec 802)

The Senate amendment directs the Secretary, acting through the State Foresters and considering the program objectives (described above), to develop a nationwide funding formula for the Sustainable Forest Management program. In developing the formula, the Secretary is required to assess the public benefits that would result from the distribution as well as the following factors: the total acreage of non-industrial private

forest land in each state, the potential productivity of that land, the number of owners eligible for cost-sharing in each state, the opportunities to enhance non-timber resources on that land, the anticipated demand for timber and non-timber resources, the need to improve forest health, the need and demand for agro forestry practices in each state, the need to maintain and enhance the forest land base, and the need for afforestation, reforestation and timber stand improvement. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes.

(16) Availability Of Funds.

The House bill makes \$200 million available from the CCC for carrying out the Forest Land Enhancement program from October 1, 2001 to September 30, 2011. (Sec. 802).

The Senate amendment makes \$48 million available from the Treasury during fiscal years 2002 through 2005 to fund the Sustainable Forest Management Program. (Sec. 806).

The Conference substitute provides for \$100 million from the CCC to carry out the program.

(17) Conforming Amendment.

The House bill amends section 246(b)(2) of Department of Agriculture Reorganization Act of 1994 by striking “forestry incentive program” and inserting “Forest Land Enhancement Program”. (Sec. 802(d))

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 802(d))

(18) Reports

The Senate amendment (1) directs the states to submit an interim report to the Secretary not later than 2 ½ years after the date on which funds are made available to implement a state Sustainable Forest Management priority plan. The report must describe the status of projects and activities being funded under the plan; and (2) requires states to submit a final report no later than 5 years after the date on which funds are made available to implement a state priority plan. The report must describe the status of all projects and activities funded under the plan as of that date. (Sec. 806)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with changes to require one report one year prior to reauthorization of the program.

(19) Renewable Resources Extension Activities (Sustainable Forestry Outreach Initiative).

The House bill (1) reauthorizes the RREA through 2011 and amends the amount of authorization from \$ 15 million to \$ 30 million; and (2) amends the RREA by inserting a new Sustainable Forestry Outreach Initiative designed to educate landowners on the value and benefits of practicing sustainable forestry, and to educate landowners about the variety of programs available to them. (Sec. 803)

The Senate amendment (1) reauthorizes the RREA through 2006 and amends the amount of the authorization from \$ 15 million to \$30 million per year; (2) amends the RREA by inserting a new Sustainable Forestry Outreach Initiative designed to educate

landowners on the value and benefits of practicing sustainable forestry, and to educate landowners about the variety of programs available to them. (Sec. 803)

The Conference substitute adopts the Senate provision. (Sec. 803)

(20) Enhanced Community Fire Protection.

The House bill amends the Cooperative Forestry Assistance Act of 1978 by adding a new Enhanced Community Fire Protection program. (Sec. 804)

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding an Enhanced Community Fire Protection section. (Sec. 811)

The Conference substitute adopts the House provision. (Sec. 804)

(21) Findings.

The House bill contains findings of Congress with respect to severity and intensity of wildland fires, 2000 fire season, threat of wildfires to communities in the wildland-urban interface, National Fire Plan, authority for addressing the wildfire issue on private lands and federal interest in enhanced community protection from wildfire. (Sec. 804 (a))

The Senate amendment contains findings of Congress with respect to severity and intensity of wildland fires, 2000 fire season, threat of wildfires to communities in the wildland-urban interface, National Fire Plan, authority for addressing the wildfire issue on private lands and federal interest in enhanced community protection from wildfire; and adds additional finding with respect to forest wetlands. (Sec. 811(a))

The Conference substitute adopts the House provision with minor changes. (Sec. 804(a))

(22) Enhanced Protection.

The House bill adds a new section 10A to the Cooperative Forestry Assistance Act of 1978. (Sec. 804(b))

The Senate amendment adds a new section 10A to the Cooperative Forestry Assistance Act of 1978. (Sec. 811(b))

The Conference substitute adopts the House provision. (Sec. 804(b))

(23) Cooperative Management Relating to Wildfire Threats.

The House bill allows the Secretary to cooperate with State foresters and equivalent state officials to: (1) prevent and control wildfire, (2) protect communities from wildfire threats, (3) enhance the growth and maintenance of trees and forests, and (4) ensure the continued production of all forest resources. (Sec. 804)

The Senate amendment allows the Secretary to cooperate with State foresters and equivalent state officials to: (1) prevent, control, suppress and assist in the prescribed use of fires, (2) protect communities from wildfire threats, (3) enhance the growth and maintenance of trees and forests, and (4) ensure the continued production of all forest resources. (Sec. 811)

The Conference substitute adopts the House provision. (Sec. 804)

(24) Community and Private Land Fire Assistance Program.

The House bill (1) directs the Secretary to establish a Community and Private Land Fire Assistance Program to be administered by the Forest Service and implemented

through the State forester or an equivalent state official; and (2) allows the Secretary to undertake the following activities on both federal and non-federal lands: fuel hazard mitigation and prevention, invasive species management, multi-resource wildfire planning, community protection planning, community and landowner education, market development and expansion, improved wood utilization, and special restoration projects. (Sec. 804)

The Senate amendment (1) directs the Secretary to establish a Community and Private Land Fire Assistance Program to be administered by the Secretary and, with respect to non-federal lands, carried out through the State forester or equivalent state official; allows the Secretary to undertake the following activities on both federal and non-federal lands: fuel hazard mitigation and prevention, invasive species management, multi-resource wildfire planning, community protection planning, community and landowner education, market development and expansion, improved wood utilization, and special restoration projects; and (2) directs the Secretary to give priority to contracts with local persons or entities in carrying out the program. (Sec. 811)

The Conference substitute adopts the House provision with minor changes. (Sec. 804)

(25) Authorization Of Appropriations

The House bill authorizes \$35 million in appropriations for each fiscal year during 2002 through 2011 for the Enhanced Community Fire Protection program. (Sec. 804)

The Senate amendment authorizes \$35 million in appropriations for each fiscal year during 2002 through 2006 for the Enhanced Community Fire Protection program (Sec. 811).

The Conference substitute adopts House provision. (Sec. 804)

(26) International Forestry Program/Office.

The House bill reauthorizes the International Forestry Program through 2011. (Sec. 805)

The Senate amendment reauthorizes the International Forestry Office through 2006. (Sec. 801)

The Conference substitute adopts the Senate provision. (Sec. 801)

(27) Long-term Forest Stewardship Contracts.

The Senate amendment (1) lists the findings of Congress with respect to wildfire damage, risk to communities from wildfire, accumulation of heavy forest fuel loads, modification of forest fuel load conditions, hazardous fuels as a renewable resource, and the need for the United States to invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities (Sec. 809(a)); and (2) defines: (a) biomass-to-energy facility, (b) eligible community, (c) forest biomass, (d) hazardous fuel, (e) Indian tribe, (f) National Fire Plan, (g) person, and (h) Secretary. (Sec. 809(b))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(28) Annual Assessment Of Treatment Acreage.

The House bill directs the Secretary to submit to Congress an assessment of the

number of acres of forested National Forest System lands recommended to be treated using stewardship contracts during the next fiscal year no later than March 1 of each of fiscal years 2002 through 2006. This assessment is to be based on the treatment schedules contained in the report entitled “Protecting People and Sustaining Resources in Fire-Adapted Ecosystems” and dated October 13, 2000; and requires the assessment to identify the acreage by condition class, type of treatment and treatment year to achieve the restoration goals outlined in the report. (Sec. 806(a))

The Senate amendment (1) directs the Secretary to submit to Congress an assessment of the number of forested National Forest System acres recommended for treatment during the next fiscal year using stewardship contracts no later than March 1 of each of fiscal years 2002 through 2006. This assessment is to be based on the treatment schedules contained in the report “Protecting People and Sustaining Resources in Fire-Adapted Ecosystems” and dated October 13, 2000; (2) requires the assessment to identify the acreage by condition class, type of treatment, and treatment year; (3) in addition, the assessment is to give priority to condition class 3 acreage, provide information relating to the type of material and estimated quantity and range of sizes of material, and describe land allocation categories in which the contract authorities will be used. (Sec. 809(d)(1))

The Conference substitute did not adopt this provision.

(29) Funding Recommendation.

The House bill directs the Secretary to include in the annual assessment a request for funds sufficient to implement the recommendations contained in the assessment. (Sec. 806 (b))

The Senate amendment directs the Secretary to include in the annual assessment a request for funds sufficient to implement the recommendations contained in the assessment. (Sec. 809(d)(2))

The Conference substitute did not adopt this provision.

(30) Stewardship End Result Contracting.

The House bill (1) permits the Secretary to enter into stewardship contracts to implement the National Fire Plan on National Forest Service lands under the direction of the assessment and with the authorities described in section 347 of the Department of the Interior Appropriations Act of 1999. But, the period of the contracts will be for 10 years. The House bill also provides that the authority of the Secretary to enter into contracts under this section expires on September 30, 2007. (Sec. 806(c))

The Senate amendment permits the Secretary to enter into no more than 28 stewardship end result contracts to implement the National Fire Plan. The contracting goals and authorities outlined in the original stewardship contracting authorization in the 1999 Department of the Interior Appropriations Act (16 U.S.C. 2104 note; Public Law 105-277, Section 347, subsections (b) through (g) apply to these contracts. Fourteen of the 28 contracts shall be subject to additional conditions. (Sec. 809(d)(3))

The Conference substitute did not adopt this provision.

(31) Status Report.

The House bill beginning in fiscal year 2003, requires the Secretary to include a status report of stewardship contracts underway in the annual assessment submitted to Congress. (Sec. 806(d))

The Senate amendment, beginning in fiscal year 2003, requires the Secretary to include in the annual assessment a status report on the contracts entered into under the Long-term Forest Stewardship Contracts for Hazardous Fuels Removal section. (Sec. 809(d)(3)(C))

The Conference substitute did not adopt this provision.

(32) Authorization Of Appropriations.

The Senate amendment authorizes to be appropriated such sums as are necessary to carry out the Long-term Forest Stewardship Contracts for Hazardous Fuels Removal in subsection (d) for fiscal years 2002 through 2006. (Sec. 809(d)(4))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(33) Excluded Areas.

The Senate amendment allows the Secretary to carry out the Wildfire Prevention and Hazardous Fuel Purchase Program only in the wildland/urban interface. (Sec. 809(e))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(34) Duration.

The House bill provides that the authority of the Secretary to enter into contracts under the Long-term Forest Stewardship contracts for Hazardous Fuels Removal and Implementation of National Fire Plan section expires on September 30, 2007. (Sec. 806(c)(2))

The Senate amendment terminates the Secretary's authority under the Wildfire Prevention and Hazardous Fuel Purchase Program on September 30, 2006. (Sec. 809(f))

The Conference substitute did not adopt this provision.

(35) Hazardous Fuels to Energy Grant Program

The House bill lists findings of Congress with respect to damages caused by wildfire disasters, risk of communities to wildfire, effect that modification of forest fuel load conditions will have on minimizing damage from wildfires, and hazardous fuels as an abundant renewable resource. (Sec. 921(a))

The Senate amendment lists Congress findings with respect to wildfire damage, risk to communities from wildfire, accumulation of heavy forest fuel loads, modification of forest fuel load conditions, hazardous fuels as a renewable resource, and the need for the United States to invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities. (Sec. 809 (a))

The Conference substitute did not adopt this provision.

(36) Definitions.

The House bill defines: (1) biomass-to-energy-facility, (2) forest biomass, (3) hazardous fuels, and (4) Secretary concerned. (Sec. 921(e))

The Senate amendment defines: (1) biomass-to-energy facility, (2) eligible community, (3) forest biomass, (4) hazardous fuel, (5) Indian tribe, (6) National Fire Plan, (7) person, and (8) Secretary. (Sec. 809(b))

The Conference substitute did not adopt this provision.

(37) Hazardous Fuels To Energy Grant Program.

The House bill authorizes the Secretary to make grants to the operators of a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forest lands for the use in the production of electric energy, useful heat, or transportation fuels; and requires that grant recipients be selected on the basis of their planned purchases of hazardous fuels and the level of anticipated benefits to reduced wildfire risk. (Sec. 921(b))

The Senate amendment (1) authorizes the Secretary to make grants to persons that operate biomass-to-energy facilities to offset the costs incurred by those persons in purchasing hazardous fuels AND persons in rural communities that are seeking ways to improve the use of, or add value to, hazardous fuels; and (2) directs the Secretary to select recipients for grants based on planned purchases of hazardous fuels, the level of anticipated benefits of purchases in reducing risk of wildfires, the extent to which the project avoids adverse environmental impacts, and the level of anticipated benefits for eligible communities. (Sec. 809(c)(1))

The Conference substitute did not adopt this provision.

(38) Grant Amounts

The House bill requires grants to be equal to at least \$5 per ton of hazardous fuels delivered, but not to exceed \$10 per ton, based on the distance of hazardous fuels from the biomass-to-energy facility. (Sec. 921(c))

The Senate amendment (1) requires that grant amounts be based on the distance required to transport hazardous fuels to a biomass-to-energy facility and the cost of removal of hazardous fuels; (2) requires that grants be in an amount that is at least equal to \$5 per ton but not more than \$10 per ton of hazardous fuels; and (3) limits grants to \$1,500,000 per year, per facility. But, a facility with an annual production of 5 megawatts or less is not subject to this limitation. (Sec. 809)

The Conference substitute did not adopt this provision.

(39) Monitoring Of Grant Recipient Activities.

The House bill requires grant recipients to keep such records as the Secretary may require, and on notice by the Secretary, grant reasonable access to facility and an opportunity to review records. (Sec. 921(d))

The Senate amendment requires grant recipients to keep such records as the Secretary may require, and on notice by the Secretary, grant reasonable access to facility and an opportunity to review records. (Sec. 809(c)(3))

The Conference substitute did not adopt this provision.

(40) Monitoring Of Effects Of Treatment.

The House bill requires the Secretary to monitor federal lands from which hazardous fuels are removed and sold to biomass-to-energy facilities to determine and document the reduction in fire hazard. (Sec. 921(e))

The Senate amendment requires the Secretary to monitor federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine the environmental impact of fuels removal; requires the Comptroller General to monitor

the number of jobs created, the opportunities created for small and micro-businesses and the types and amounts of energy supplies created and energy prices for eligible communities; and requires the Comptroller General to submit an annual report to Congress beginning in fiscal year 2003 that describes the information obtained through monitoring. (Sec. 809(c)(4))

The Conference substitute did not adopt this provision.

(41) Authorization Of Appropriations.

The House bill authorizes \$50 million in appropriations for each fiscal year. (Sec. 921(g))

The Senate amendment authorizes \$50 million in appropriations for each fiscal year from 2002 to 2006. (Sec. 809(c)(7))

The Conference substitute did not adopt this provision.

(42) Review And Report.

The Senate amendment directs the Comptroller General to submit a report to Congress that describes the results and effectiveness of the Wildfire Prevention and Hazardous Fuel Purchase Program not later than September 30, 2004; requires the Secretary to submit to Congress an annual report describing the results of the pilot program that includes an identification of the size of each facility that receives a grant and the haul radius associated with each grant; and requires the Secretary to submit a report to Congress by December 1, 2003 which describes the technical feasibility of the use of small diameter trees and biomass for energy production, the environmental impacts of using small diameter trees and forest residues and any social or economic benefits of small-scale biomass energy units for rural communities. (Sec. 809 (c)(5))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(43) Grants To Other Persons.

The House bill contains no comparable provision.

The Senate amendment allows the Secretary to make grants to persons in rural communities that are seeking to ways to improve the use of, or add value to, hazardous fuels. (Sec. 809(c)(6))

The Conference substitute did not adopt this provision.

(44) Excluded Areas

The Senate amendment allows the Secretary to carry out the Wildfire Prevention and Hazardous Fuel Purchase Program only in the wildland/urban interface. (Sec. 809(e))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(45) Termination Of Authority

The Senate amendment terminates the Secretary's authority under the Wildfire Prevention and Hazardous Fuel Purchase Program on September 30, 2006. (Sec. 809(f))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(46) McIntire-Stennis Cooperative Forestry Research Program.

The House bill reaffirms the importance of the McIntire-Stennis Cooperative Forestry Act. (Sec. 807)

The Senate amendment reaffirms the importance of the McIntire-Stennis Cooperative Forestry Act. (Sec. 802)

The Conference substitute adopts the House provision with minor technical change to public law number. (Sec. 807)

The Managers recognize the importance of university-based programs in forest and natural resources to the success of many of the technical assistance and cost-share programs in the Conservation and Forestry Titles of this Act including the Conservation Reserve Program, EQIP, Sustainable Forestry Outreach Initiative, Forest Land Enhancement Program. As these programs are expanded and enhanced, there will be an increased need for science-based information in the development of these initiatives. The nation's forestry schools and colleges are uniquely equipped to expand the base of knowledge and to assist in the delivery of educational outreach to our nation's nonfederal forest landowners. The Managers expect the Department to seek greater cooperation and collaboration with universities as it implements these various technical assistance and cost-share programs.

(47) Sustainable Forestry Cooperative Program

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 5A:

The Senate amendment defines: (a) farmer or rancher, (b) forestry cooperative, and (c) non-industrial private forestland.

The Senate amendment directs the Secretary to establish a program to provide grants to nonprofit organizations on a competitive basis to establish and support forestry cooperatives.

The Senate amendment requires funds to be used for the support of forestry cooperatives or the support of a sustainable forestry practice of a member of a cooperative.

The Senate amendment requires the Secretary to provide funds only to a nonprofit organization with demonstrated expertise in cooperative development as determined by the Secretary. Requires funds being used to support a land management practice to comply with an approved forest plan.

The Senate amendment makes \$2 million available from the Treasury to remain available until expended. (Sec. 805)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(48) Forest Fire Research Centers.

The Senate amendment lists Congressional findings with respect to: (1) increasing threat of fire to forest land and rangeland, (2) concentration of fire threat in the western part of the United States, (3) degraded condition of forest land and rangeland, (4) results of current land management practices in the United States, (5) population movement into wildland-urban interface, (6) budgets of governments, (7) diminishing

Federal resources for fire research, (h) funding for Federal fire research program, and (8) critical need for cost-effective investments in improved fire management technologies (Sec. 808(a)).

The Senate amendment directs the Secretary to establish at least 2 forest fire research centers at institutions of higher education to: (1) conduct integrative, interdisciplinary research into the ecological, socioeconomic and environmental impact of fire control and the use of managing ecosystems and landscapes to facilitate fire control, and (2) to develop mechanisms to transfer new fire technologies (Sec. 808(b)).

The Senate amendment directs the Secretary, in consultation with the Secretary of Interior, to establish an advisory committee to establish priorities for research projects conducted at the forest fire research centers established above (Sec. 808(c)).

The Senate amendment authorizes the appropriation of such sums as are necessary to carry out this section. (Sec. 808(d))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(49) Watershed forestry assistance program

The Senate amendment lists Congressional findings with respect to: (1) public attitudes about forest management, (2) benefits of proper stewardship, (3) importance of forests to protecting the drinking water supply, (4) forest loss and fragmentation in urbanizing areas, (5) scientific evidence and public awareness about forest management and water quality, (6) application of forestry best management practices, (7) efforts to improve forestry best management practices, (8) role of forests in maintenance of clean water, (9) burden of management on private forest land owners, (10) need to integrate management, conservation, restoration and stewardship, (11) responsibility of federal government, (12) availability of federal assistance, and (13) the need for increased research, education, technical and financial assistance to private forest land owners.

The Senate amendment describes the purposes of this section as: (1) improving the understanding of landowners and public with respect to the relationship between water quality and forest management, (2) encouraging landowners to utilize trees to promote water quality, (3) enhancing and complementing source water protection in watersheds that provide drinking water, (4) establishing new partnerships, and (5) providing technical and financial assistance to States.

The Senate amendment directs the Secretary to establish a new program to provide states, through the State foresters, technical, financial, and related assistance to expand forest stewardship and prevent water quality degradation and address watershed issues on non-Federal forestland (Sec. 812(c)); requires the Secretary to cooperate with the State Foresters to develop a plan to provide technical assistance to States in addressing water quality; requires the plan to include provisions to accomplish the following tasks: (1) build and strengthen watershed partnerships, (2) provide State BMPs and water quality technical assistance to landowners, (3) provide technical guidance to land managers and policymakers, (4) complement State non-point source assessment and management plans, (5) provide opportunities for coordination and cooperation among Federal and State agencies for water and watershed management, and (6) provide forest resource data for improved implementation of state BMPs; directs the Secretary to develop a cost-share program to provide grants and other assistance for eligible programs and projects; sets forth criteria which the Secretary must consider in allocating funds

among the states; requires the State foresters, in coordination with the State Coordinating Committee, to provide annual grants and cost-share payments to communities, non-profit groups, and landowners to carry out eligible programs and projects; directs the Secretary to prioritize cost-share assistance to eligible programs and projects that are identified by the State foresters and the State Stewardship Committees as having a greater need for assistance; limits the amount of federal cost-share to not exceed 75% and permits the non-federal share to be made in the form of cash, services, or in-kind contributions; allows states to use a portion of the funds made available to the state to establish and fill a position of watershed forester to lead state-wide programs; authorizes \$20 million to be appropriated for each fiscal year through 2006; and requires funding to be allocated in such a manner that 75% is going to the cost-share portion of the program and the remainder for other provisions within the section. (Sec. 812)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(50) General Provisions.

The Senate amendment amends section 13 of the Cooperative Forestry Assistance Act to enable the Secretary to make grants and enter into contracts, agreements or other arrangements to carry out the Cooperative Forestry Assistance Act. (Sec. 814)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(51) State Forest Stewardship Coordinating Committees

The Senate amendment amends section 19(b) of the Cooperative Forestry Assistance Act by adding the U.S. Fish and Wildlife Service as a member of the State Forest Stewardship Coordinating Committees.

The Senate amendment also directs the Committees to submit to the Secretary, and House and Senate Agriculture Committees an annual report of the list of members on the Committee, and an explanation of why certain groups may not be represented. (Sec. 815)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(52) Forest Legacy Program.

The Senate amendment amends section 7(l) of the Cooperative Forestry Management Act to allow a state to authorize any local government or qualified organization to acquire land or conservation easements to carry out the Forest Legacy Program in that state. (Sec. 807)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(53) Chesapeake Bay Watershed Forestry Program.

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 9A:

The Senate amendment lists definitions for: (1) agreement, (2) Bay-Area state, (3) Chesapeake Bay Executive Council, (4) director, (5) eligible entity, (6) eligible project, (7) program, and (8) Secretary.

The Senate amendment directs the Secretary to establish a Chesapeake Bay Watershed Forestry Program to provide technical and financial assistance to carry out eligible projects; and directs the Secretary to designate a Forest Service employee to serve as a director for the Chesapeake Bay watershed forestry efforts.

The Senate amendment allows the Secretary, in coordination with the director, to provide grants to assist eligible entities in carrying out eligible projects; and limits the federal share of the cost-share assistance to 75%.

The Senate amendment requires the director, in cooperation with the Council, to conduct a study to: (1) assess the extent and location of forest loss and fragmentation, (2) identify critical forest land, (3) prioritize afforestation needs, (4) recommend management strategies to expand conservation and stewardship of the forest ecosystem and ways in which the Federal government can work with State, county, local, and private entities to conserve critical forests including establishing new units of the National Forest System, and (5) identify further inventory assessment and research which is needed and requires the director to report to Congress not later than 2 years after the date of enactment of this legislation.

The Senate amendment allows the Secretary, in cooperation with the director, to establish a cooperative program to provide technical and financial assistance to eligible entities to meet the needs of the urban population of the watershed in managing forest land.

The Senate amendment authorizes \$3 million in appropriations for fiscal year 2002 and \$3.5 million for each fiscal year in 2003 through 2006. (Sec. 810)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(54) Suburban and Community Forestry and Open Space Initiative.

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 7A:

The Senate amendment lists definitions for: (1) eligible entity, (2) Indian tribe, (3) private forestland, (4) program, and (5) Secretary.

The Senate amendment establishes a Suburban and Community Forestry and Open Space Initiative within the Forest Service to provide assistance to eligible entities to carry out projects and activities to conserve private forest land and maintain working forests in suburban environments.

The Senate Amendment requires the Secretary, in consultation with the State foresters, to establish criteria for identifying private forest land in each state that may be conserved, and identifying eligible entities; requires the Secretary to then award grants to eligible entities to carry out certain projects or activities; and requires the Secretary to give priority to projects that promote the following objectives: (1) sustainable forest management, (2) education programs and curricula relating to sustainable forestry, and (3) community involvement in determining the objectives for projects or activities that are funded under this program, and limits grants to 50% of the cost of a project or activity.

The Senate amendment allows funds to be used to purchase land or easements only from willing sellers at fair market value; requires sales at less than fair market value only on certification by the landowner that the sale is being entered into willingly and without coercion; and allows title to be held, as determined by the Secretary, by a State or

non-profit organization.

The Senate amendment authorizes \$50 million to be appropriated for fiscal year 2003 and such sums as are necessary for each fiscal year thereafter. (Sec. 813)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(55) USDA National Agro forestry Center.

The Senate amendment amends section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101-624) by striking the section heading and inserting:

“USDA National Agro forestry Center”. (Sec. 816)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.. (Sec. 819)

(56) Office of Tribal Relations.

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 19A:

The Senate amendment defines the following: (1) Indian tribe, (2) office, and (3) Secretary.

The Senate Amendment directs the Secretary to establish an Office of Tribal Relations within the Forest Service and requires the Secretary to appoint a director of such office and to consult with interested tribes in making this determination; and requires the director to report directly to the Secretary.

The Senate amendment requires the director to provide assistance to the Secretary on all issues, policies, actions, and programs of the Forest Service that affect Indian tribes and requires the director to submit an annual report on the status of relations between the Forest Service and Indian Tribes to the Secretary. (Sec. 817)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(57) Assistance to Tribal Governments.

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 21:

The Senate amendment defines an Indian tribe.

The Senate amendment allows the Secretary to provide financial, technical, educational and related assistance to Indian tribes.

The Senate amendment directs the Secretary to promulgate regulations in consultation with Indian tribes and representatives of tribes, to implement the program.

The Senate amendment directs the Secretary to coordinate with the Secretary of the Interior to establish, implement and administer the program.

The Senate amendment authorizes the appropriation of such sums, as are necessary for fiscal year 2002 and each fiscal year thereafter. (Sec. 818)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(58) Sudden Oak Death Syndrome.

The Senate amendment directs the Secretary to research, monitor and carry out a

treatment program to develop, control, manage, or eradicate Sudden Oak Death Syndrome on public and private land.

The Senate amendment requires the Secretary to conduct management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by Sudden Oak Death Syndrome.

The Senate amendment requires the Secretary to conduct education and outreach activities to make information available to the public on Sudden Oak Death Syndrome.

The Senate amendment requires the Secretary to establish a Sudden Oak Death Syndrome advisory committee to assist the Secretary in carrying out this section.

The Senate amendment authorizes \$14.25 million in appropriations for each of the fiscal years in 2002 through 2006. (Sec. 819)

The House bill contains no comparable provision.
The Conference substitute did not adopt this provision.

(59) Independent Investigation of Fire-Fighter Fatalities.

The Senate amendment requires the Inspector General of the Department of Agriculture to conduct an independent investigation whenever there is a fatality of an officer or employee of the Forest Service that occurs due to wildfire entrapment or burn over and requires the IG to submit a report to Congress and the Secretary of Agriculture. (Sec. 820)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(60) Adaptive Ecosystem Restoration of Arizona and New Mexico Forests and Woodlands.

The Senate amendment lists Congressional findings with respect to: (1) degradation of ecological conditions of forests and woodlands in Arizona and New Mexico, (2) unnaturally high quantities of biomass, (3) effects of degraded forests and woodlands, (4) benefits of healthy forests and woodland ecosystems, (5) importance of best available scientific knowledge in developing forest and woodland treatments, (6) failure of treatments not based on sound science, (7) integration of scientific research and land management activities, and (8) translation of scientific knowledge;

The Senate amendment describes the purposes of this section as: (1) improving the ecological health, resource values, and sustainability of forest and woodland ecosystems in Arizona and New Mexico, (2) reducing the threat of unnatural wildfire, disease, and insect infestations in those states, (3) restoring ecosystem structure and function so that ecosystems will support biodiversity; enhance watershed values; increase water flow; and increase tree, grass, forb, and shrub vigor and growth to provide sustainable economic activities, (4) developing the scientific knowledge to inform adaptive ecosystem management restoration treatments that will restore long-term ecological health to forests and woodlands in the States, and (5) encouraging collaboration among land management agencies, communities, and interest groups in developing, implementing, and monitoring adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible;

The Senate amendment lists definitions for: (1) adaptive ecosystem management, (2) ecological integrity, (3) ecological restoration, (4) institute, (5) land management agency, (6) practitioner, (7) Secretaries, and (8) state.

The Senate amendment requires the Secretary of Agriculture, in consultation with the Secretary of the Interior, to establish: (1) an Ecological Restoration Institute in Flagstaff, Arizona, and (2) an institute at a college or university in the State of New Mexico.

The Senate amendment requires each institute to plan, conduct, or otherwise arrange for applied ecosystem management research that: (1) assists in answering questions identified by land managers, practitioners, and others concerned with land management, (2) will be useful in the development and implementation of practical, science-based, ecological restoration treatments, (3) translate scientific knowledge into communication tools that are easily understood by land managers, natural resource professionals, and concerned citizens, and (4) provide similar information to land managers and other interested persons.

The Senate amendment requires each institute to cooperate with various entities, including colleges and universities.

The Senate amendment requires the Secretary, in consultation with the Secretary of Interior, to complete a detailed evaluation of each institute not later than 5 years after the date of enactment of this Act, and every 5 years thereafter.

The Senate amendment authorizes \$10 million in appropriations for each fiscal year. (Sec. 821)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

TITLE IX — ENERGY

(1) Findings

The Senate amendment provides Congressional findings with respect to the development of agriculturally based renewable energy, the promotion of energy efficiency and biobased products. (Section 901)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(2) Consolidated Farm and Rural Development Act

The Senate amendment amends the Consolidated Farm and Rural Development Act by adding a new subtitle on “Clean Energy” and includes definitions for biomass, renewable energy, and rural small business. (Section 902)

The House bill contains no comparable provision.

The Conference substitute does not amend the Consolidated Farm and Rural Development Act, but rather maintains the section as individual stand-alone provisions. The substitute adopts the Senate definitions with amendments. (Section 9001)

(3) Federal Procurement of Biobased Products

The Senate amendment establishes a federal purchasing program for biobased products if they are on a United States Department of Agriculture biobased products list and the biobased products are reasonably comparable in price, performance and availability to non-biobased products. The section also instructs the Secretary to develop a labeling program for biobased products similar to the Energy Star program of the

Environmental Protection Agency and Department of Energy. The amendment provides \$2,000,000 annually in each of fiscal years 2002-2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The substitute establishes a new program for the purchase of biobased products by Federal agencies, which is modeled on the existing program for purchase of recycled materials under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962). The intent of the section is to stimulate the production of new biobased products and to energize emerging markets for those products. The section also includes a voluntary biobased-labeling program. The Conference substitute provides \$1,000,000 annually for each of fiscal year 2002-2007 for testing biobased products to carry out this section. (Section 9002) The Managers encourage the Secretary to make the results of such testing available to the public.

The United States Department of Agriculture, in consultation with the Environmental Protection Agency, General Services Administration, and the Department of Commerce, will serve as the final arbiter of what is or is not considered a biobased product to be listed and afforded Federal procurement preference. The Office of Federal Procurement Policy will ensure compliance by all Federal agencies, including executive departments, military departments, Government corporations, Government controlled corporations, and other establishments of Federal government.

The Managers intend that any procurement regulations implementing this section will be promulgated within the existing procurement system through revisions to the Federal Acquisition Regulation by the Civilian Agency Acquisition Council and the Defense Acquisition Council and through revisions as necessary to individual agency acquisition regulations by such agencies.

The Managers encourage the Secretary to carry out the biobased product analysis in this section through the Office of Energy Policy and New Uses, which have undertaken economic and technical feasibility analysis and have identified numerous examples of biobased products that can be easily substituted for nonbiobased products.

(4) Biorefinery Development Grants

The Senate amendment establishes a competitive grant program to support the development of biorefineries for the conversion of biomass into multiple products such as fuels, chemicals and electricity. The amendment provides \$15,000,000 annually in each of fiscal years 2002-2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The section is subject to appropriated funds. (Section 9003)

In making selections for competitive awards, the Secretary is encouraged to give particular weight to projects that produce multiple products- fuels, chemicals, and in some cases power – and do so in a cost effective and environmentally sound manner.

(5) Biodiesel Fuel Education Program

The Senate amendment establishes a competitive grant program to educate governmental and private entities with vehicle fleets and the public about the benefits of biodiesel fuel use. The amendment provides \$5,000,000 annually in each of fiscal year 2003-2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The Substitute provides \$1,000,000 annually in each of fiscal year 2003-2007. (Section 9004)

The Managers encourage the Secretary to utilize the expertise of the Office of Energy Policy and New Uses in carrying out the purposes of this section.

(6) Renewable Energy Development Loan and Grant Program

The House bill amends Section 310B of the Consolidated Farm and Rural Development Act by adding other renewable energy systems including wind energy and anaerobic digesters to the list of purposes for which loans and loan guarantees are available. (Section 606) The House bill also contains a provision that provides value-added grants to entities to develop new marketing and income opportunities for farmers. (Section 602)

The Senate amendment establishes a competitive grant and loan program to assist new cooperatives and business ventures, which are at least 51 percent owned by farmers or ranchers, in the development of renewable energy projects to produce electricity. The amendment provides \$16,000,000 annually in each of fiscal years 2002-2006. (Section 902)

The Conference substitute adopts the House provisions with amendment. The value-added grant program in the Rural Development title has been expanded to better achieve the purposes of this section. This expansion, along with the adoption of House language that allows loans for these purposes, should accomplish the goals of the Senate's provision and encourage more farmers and ranchers to become involved in the ownership of renewable energy systems. (Sections 6401 and 6013)

(7) Energy Audit and Renewable Energy Development Program

The Senate amendment establishes a competitive grant program for entities to administer energy audits and renewable energy development assessments for farmers, ranchers and rural small businesses. The amendment provides \$15,000,000 annually in each of fiscal years 2002-2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The section is subject to appropriated funds. (Section 9005)

(8) Renewable Energy Systems and Energy Efficiency Improvements

The House bill authorizes the Secretary to provide to individuals a loan guarantee under Section 4 of the Rural Electrification Act to finance the purchase of renewable energy systems, including wind energy systems and anaerobic digesters for the purpose of energy generation. (Section 605)

The Senate amendment establishes a loan, loan guarantee and grant program to assist eligible farmers, ranchers and rural small businesses in purchasing renewable energy systems and making energy efficiency improvements. The amendment provides \$33,000,000 annually in each of fiscal years 2002-2006. (Section 902)

The Conference substitute adopts the Senate provision with amendments. The Conference substitute provides \$23,000,000 annually in each of fiscal year 2003-2007. (Section 9006)

The Managers intend for the Secretary to consider funding energy audits an eligible energy efficiency improvement measure under this section.

(9) Hydrogen and Fuel Cell Technologies

The Senate amendment establishes a competitive grant program to eligible entities to demonstrate the use of hydrogen and fuel cell technologies in farm and rural applications. The amendment provides \$5,000,000 in each of fiscal years 2002-2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision and replaces it with language directing the Secretaries of Agriculture and Energy to enter into a memorandum of understanding regarding hydrogen and fuel cell technology applications for agricultural producers and rural communities. The memorandum of understanding also requires the Secretary of Agriculture to disseminate information relating to hydrogen and fuel cell technologies to rural communities and agricultural producers. (Section 9007)

The Managers encourage the Secretary to utilize the expertise of the Office of Energy Policy and New Uses in carrying out this section.

(10) Technical Assistance for Farmers and Ranchers to Develop Renewable Energy Resources

The House bill expands the purpose of the Environmental Quality Incentives Program to include assistance to farmers and ranchers for the assessment and development of their on-farm renewable resources, including biomass for production of power and fuel, wind and solar. (Section 942a)

The House bill also provides that the Secretary of Agriculture, through the Cooperative State Research, Education, and Extension Service and, to the extent practicable, in collaboration with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other appropriate entities, may provide education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources, including biomass for the production of power and fuels, wind, solar, and geothermal. (Section 942b)

The Senate amendment provides that the Secretary, acting through the Cooperative State Research, Education, and Extension Service in consultation with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other entities as appropriate, may provide for education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources. The Secretary may retain up to 4 percent to pay administrative expenses incurred in carrying out this section. (Section 902)

The Conference substitute deletes both the House and Senate provisions.

The Managers encourage the Cooperative State Research, Education, and Extension Service to provide education and technical assistance to agricultural producers for the development of renewable energy resources. Such assistance should enable producers to become more energy efficient and provide for the development and marketing of renewable energy resources. In assisting producers, the Cooperative Extension Service may consult with other entities as appropriate.

(11) Biomass Research and Development

The House bill extends the Biomass Research and Development Initiative through 2011. (Section 736)

The Senate amendment extends the Act's termination date to September 30, 2006. The amendment provides \$15,000,000 in each of fiscal years 2002-2006. (Section 903)

The Conference substitute adopts the Senate provision with amendments. The substitute provides \$5,000,000 for fiscal year 2002, and 14,000,000 annually for each of fiscal year 2003-2007. (Section 9008)

(12) Cooperative Research and Extension Projects

The Senate amendment establishes a carbon sequestration research and development program to promote understanding of the net sequestration of carbon in soil and net emissions of other greenhouse gases from agriculture. The amendment requires that, within three years, the Secretary convene a conference of key scientific experts on carbon sequestration from various sectors to establish benchmark standards for measuring soil carbon content and net emissions of other greenhouse gases, designate measurement techniques and modeling approaches to achieve such standards, and evaluate results of analyses on baseline, permanence and leakage issues. The section authorizes appropriations of \$25,000,000 annually. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments that incorporate this section into Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407) – Carbon Cycle Research. (Section 9009) The substitute also reauthorizes Section 221 of the Agriculture Risk Protection Act of 2002 (114 Stat. 407) – Carbon Cycle Research through fiscal year 2007. (Section 7223)

The Managers encourage the Secretary to convene a conference of key scientific experts on carbon to evaluate tools and procedures for measuring the carbon content of soils and plants (including trees) and net emissions of other greenhouse gases from agriculture, and identify techniques and modeling approaches for measuring carbon content associated with several different levels of precision. Conference participants should include grant or cooperative agreement recipients under federal carbon cycle research programs, other experts on carbon sequestration from academia and the private sector, and government scientists in the area of carbon sequestration, from the Department of Agriculture and other federal agencies with programs in carbon cycle research. The Secretary is encouraged to provide information to the public regarding any such conference proceedings.

The Managers encourage the Secretary to establish demonstration projects that assist agricultural producers and farmer-owned cooperatives in paying the costs associated with the testing of methods developed under this section (including costs incurred in employing certified independent third persons to carry out those activities). In the view of the Managers, such demonstration projects may provide valuable data in testing the methods by which farmers measure their storage of carbon and reduce net emissions of greenhouse gases.

(13) Demonstration Projects and Outreach

The Senate amendment establishes carbon sequestration monitoring programs; demonstration projects of methods for measuring, verifying and monitoring changes in carbon content and greenhouse gas emissions; and periodic outreach to farmers and

ranchers regarding the connection between global climate change mitigation strategies and agriculture. The section authorizes appropriations of \$10,000,000 annually. (Section 902)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Some of the goals of this section have been incorporated into Section 9009.

(14) Rural Electrification Act of 1936

The House bill amends Section 310B of the Consolidated Farm and Rural Development Act to specifically include wind energy systems and anaerobic digesters in the list of purposes for which loans and loan guarantees are available. (Section 606)

The Senate amendment amends the Rural Electrification Act of 1936 by adding Section 21 at the end which establishes a grant and loan program to assist rural electric cooperatives and other rural electric utilities in developing renewable energy to serve the needs of rural communities or for rural economic development. Grants may be used to help pay for renewable energy project feasibility studies and technical assistance. Loans are available for other costs associated with a project. The amendment provides \$9,000,000 in each of fiscal years 2002-2006. (Section 904)

The Conference substitute adopts the House provision. (Section 6013)

The Managers encourage the Secretary to use existing authorities to provide loans, loan guarantees and grants to rural electric cooperatives and other electric utilities to promote the development of economically and environmentally sustainable renewable energy projects to serve the needs of rural communities or to promote rural economic development.

(15) Carbon Sequestration Demonstration Program

The Senate amendment establishes a competitive research and development program to test the methodologies by which private parties may pay farmers and foresters a market-based fee to store carbon and to otherwise reduce net emissions of greenhouse gases. Under this program, the Department of Agriculture would share in the costs of monitoring, verifying and auditing such trades on a demonstration basis and would also make grants to researchers to establish the best methodologies for measuring additional carbon sequestration in soils and plants. The section authorizes appropriations of \$20,000,000 annually. (Section 905)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Some of the goals of this section are incorporated into Section 9009.

(16) Sense of Congress Concerning National Renewable Fuels Standard

The Senate amendment expresses the sense of Congress that a national renewable fuels program should be adopted and that the Department of Agriculture should ensure that its policies and programs promote the production of fuels from renewable fuel sources. (Section 906)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(17) Continuation of the Bioenergy Program

The House bill requires the Secretary to include animal fats, agricultural by-products, and oils as eligible commodities under the existing Bioenergy Program (7 CFR 1424). (Section 922)

The Senate amendment expresses the sense of Congress that biofuel production capacity will be needed to phase out methyl tertiary butyl ether in gasoline, and because of the dependence of the United States on foreign oil, the bioenergy program of the Department of Agriculture should be continued and expanded. (Section 907)

The Conference substitute deletes both provisions, and instead authorizes the continuation of the Commodity Credit Corporation Bioenergy Program and includes animal byproducts and fat, oils and greases (including recycled fats, oils and greases) as eligible commodities. The conference substitute provides a total of \$204 million to fund this program during fiscal years 2003-2006. (Section 9010)

The Managers encourage the Secretary to investigate the feasibility of utilizing wheat that has been infested with karnal bunt spores, and for which a market is not readily available, in the operation of the Commodity Credit Corporation Bioenergy Program.

GENERAL INTENT – TITLE IX

The Managers intend for all reports to Congress required under Title IX to be transmitted to the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the House Committee on Energy and Commerce and the House Committee on Science.

The Managers intend for the Secretary to identify and incorporate the mission of Title IX and the strategy for implementation as part of the reporting required by the Government Performance and Results Act.

TITLE X -- MISCELLANEOUS PROVISIONS

Subtitle A – Tree Assistance Program

(1) Eligibility.

The House bill requires the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of a natural disaster. Orchardists qualify for assistance only if tree mortality exceeds 15%. (Section 901)

The Senate amendment amends Sec. 194 of the Federal Agriculture Improvement Act of 1996 as follows: Sec. 194(b) requires the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of a natural disaster. Orchardists qualify for assistance only if tree mortality exceeds 15%. (Sec. 1062)

The Conference substitute adopts the House provision. (Sec.10202)

(2) Assistance.

The House bill amends the Tree Assistance Program authorized by the Disaster Assistance Act of 1988 to establish a reimbursement of either 75% of the cost of replanting eligible trees lost or, at the discretion of the Secretary, sufficient seedlings to reestablish the stand. (Sec. 902)

The Senate amendment amends Sec. 194(c)(1) consists of either reimbursement of 75% of the cost of replanting eligible trees lost or, at the discretion of the Secretary, sufficient seedlings to reestablish the stand. (Sec. 1062)

The Conference substitute adopts the House provision. (Sec. 10203)

(3) Limitation on Assistance.

The House bill establishes that a limit on payments per person may not exceed \$50,000 or an equivalent value in tree seedlings; requires the Secretary to issue regulations defining a person; and requires the Secretary to issue regulations prescribing rules to ensure a fair and reasonable application of the limitation established under this section. (Sec. 903)

The Senate amendment amends Sec. 194(c)(2) by setting payment limitations per person to not exceed \$100,000 or an equivalent value in tree seedlings; requires the Secretary to issue regulations defining a person; and requires the Secretary to issue regulations prescribing rules to ensure a fair and reasonable application of the limitation established under this section. (Sec. 1062)

The Conference substitute adopts the House provision with an amendment that a payment limitation per person may not exceed \$75,000 or an equivalent in tree seedlings. (Sec.10204)

(4) Definitions.

The House bill defines eligible orchardist, natural disaster and tree. (Sec. 904)

The Senate amendment defines Sec194 (a) eligible orchardist, natural disaster, tree and Secretary. These definitions are very similar to the House bill, with one exception as follow: there is no requirement that an eligible orchardist owns 500 acres or less of such trees. (Sec. 1062)

The Conference substitute adopts the House provision with amendments that the total quantity of acres for which a person shall be entitled to receive payments under this chapter may not exceed 500 acres and adds “lightning” to the definition of natural disaster. (Sec. 10201)

The Senate amendment makes the Tree Assistance Program an authorization subject to appropriations.

The Conference substitute adopts the Senate amendment’s authorization of Appropriations. (Sec.10205)

The Managers acknowledge that assistance was provided to producers to compensate for losses of trees from which a crop is harvested under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2000, for losses suffered in 1999, but not since that time. Establishment of legislative authority for the Tree Assistance Program does not preclude seeking assistance under any other authority on behalf of tree crop producers who suffered similar losses between January 2000 and the date of enactment of this Act.

Subtitle B - Other Matters

(5) Hazardous Fuels Reduction Grants to Prevent Wildfire Disasters and Transform

Hazardous Fuels to Electric Energy, Useful Heat or Transportation Fuels.

The House bill (1) provides the findings of the Congress on hazardous fuel reduction grants; (2) authorizes the Secretary concerned to make a grant to a person that operates a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forestlands. (3) establishes the grants shall be equal to \$5 per ton but not to exceed \$10 per ton of hazardous fuels based on distance from source to facility; (4) establishes as a condition of receiving a grant under this section, the owner of the facility is required to keep records as required by the Secretary, and to award the Secretary or their designee access to the facility to examine inventory and records of the facility; (5) authorizes the Secretary concerned to monitor Federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine and document the reduction in fire hazards on such lands; defines biomass-to-energy facility, forest biomass, hazardous fuels, and Secretary concerned; authorizes \$50 million for each FY for the duration of the bill. (Sec. 921)

The Senate amendment (1) provides findings similar to House version findings under Hazardous Fuels Reduction Grants; (2) defines “eligible community” as any town, township, municipality, or other similar unit of local government or any area represented by a nonprofit to promote broad-based economic development, and has a population of not more than 10,000, and is located within a county with 15% of total labor and income is derived from forestry and is located near forest land the Secretary determines poses a potential hazard, the “hazardous fuels” definition is different from the House version, only in that it specifies the land must be in an wildland-urban interface area or in an area located near an eligible community, Indian tribe, Secretary, and others; (3) authorizes the Secretary concerned to make a grant to a person that operates a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forestlands. The Secretary shall select recipients based on planned purchases of hazardous fuels and the anticipated associated wildfire risk reduction; (4) establishes the grant amounts shall be equal to \$5 per ton but not to exceed \$10 per ton of hazardous fuels based on distance from source to facility; OR based on the distance from source to facility and the cost of removal of fuels; (5) establishes a grant shall not exceed \$1.5 million for any facility for any year with the exception of a small facility with an annual production of 5 megawatts or less; provides the monitoring of grants is very similar to House version, but with a little more detail; (6) authorizes the Secretary concerned shall monitor Federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine and document the reduction in fire hazards on such lands; (7) authorizes \$50 million for each FY for the duration of the bill. (Sec. 809)

The Conference substitute deletes both the House and Senate provisions.

(6) Bioenergy Program

The House bill requires the Secretary to include animal fats, agricultural by-products, and oils as eligible commodities under the existing Bioenergy Program (7 CFR 1424). (Sec. 922)

The Senate amendment establishes the Sense of Congress that Ethanol and Biodiesel production capacity will be needed to phase out MTBE and U.S. dependence on foreign oil and that the Bioenergy Program (7 CFR 1424) should be continued and expanded. (Sec. 907)

The Conference substitute deletes both provisions, and instead authorizes the continuation of the Commodity Credit Corporation Bioenergy Program and includes animal byproducts and fat, oils and greases (including recycled fats, oils and greases) as eligible commodities. The conference substitute provides a total of \$204 million to fund this program during fiscal years 2003-2006. (Section 9010)

(7) Availability of section 32 funds.

The House bill amends the second undesignated paragraph of section 32 of 7 U.S.C. 612c by striking \$300,000,000 and inserting \$500,000,000. (Sec. 923)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10602)

(8) Seniors farmers market nutrition program.

The House bill allows the Secretary to use \$15,000,000 of CCC funds for each of fiscal years 2002 through 2011 to carry out and expand a seniors farmers' market nutrition program. Further explains purposes of program. (Sec. 924)

The Senate amendment requires the Secretary of the Treasury to transfer \$15,000,000 30 days after enactment and each fiscal year 2003 through 2006 to the Secretary of Agriculture to carry out and expand a seniors farmers' market nutrition program. Further explains purposes of program. (Sec. 459)

The Conference substitute adopts the House provision with an amendment to provide \$5 million in 2002, \$15 million per year thereafter 2003 through 2007 (The program already received \$10 million for FY2002 in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002.). (Sec. 4402)

(9) Federal marketing order for cane berries.

The House bill requires the Secretary to issue a Federal marketing order for producers and processors of cane berries grown in the United States. (Section 925)

The Senate amendment provides marketing orders for producers of cane berries. (Sec. 161)

The Conference substitute adopts the Senate provision. (Sec. 10601)

A Federal Marketing Order for cane berries will allow producers to promote orderly marketing through collectively influencing the supply, demand or price and to pool resources to finance research and promotion. Producers need this tool to address low prices due, in part, to overproduction.

(10) National Appeals Division.

The House bill provides that if an appellant prevails at the regional level in an administrative appeal of a decision by the National Appeals Division, the Agency may not pursue an administrative appeal of that decision to the national level. (Sec. 926)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(11) Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers.

The House bill amends the outreach program for socially disadvantaged farmers and ranchers contained in Sec. 2501 of the Food, Agriculture, Conservation and Trade Act of 1990 by increasing the authorization of appropriations from \$10 million in each fiscal year to \$25 million and further explains assistance and eligibility. (Sec. 927)

The Senate amendment is similar except that subsection (a)(5)(B) allows for interagency funding and subsection (b) adds “gender” to the definition of “Socially Disadvantaged Group”. (Sec. 1054)

The Conference substitute adopts the Senate language with an amendment to strike the reference to “gender,” and maintain eligibility for certain institutions. (Sec. 10707)

(12) Reference to sea grass and sea oats as crops covered by noninsured crop disaster assistance program.

The House Bill amends Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 to include sea oats and sea grass as crops covered by Noninsured Crop Disaster Assistance Program. (Section 929)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10101)

(13) Operation of Graduate School of Department of Agriculture.

The House bill requires that contracts entered into between the USDA Graduate School and Federal agencies for educational, training, and professional development activities must be open to competitive bidding with the private sector. (Sec. 930)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment striking section 1669 of the Food, Agriculture, Conservation, and Trade Act of 1990, adding an audit authority to section 921 of the Federal Agriculture Improvement Reform Act of 1996, and delaying the effective date of the amendment to October 1, 2002. (Sec. 10705)

(14) Assistance for livestock producers.

The House bill authorizes, subject to appropriations, assistance for livestock and dairy producers who have suffered economic losses. (Sec. 931)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10104)

(15) Compliance with Buy American Act.

The House bill prevents the use of funds, under the Act, from being used by any producer, person, or entity that does not agree to comply with the Buy American Act in the expenditure of such funds; expressed the Sense of Congress that producers and other recipients of funds should, in expending the funds, purchase only American-made equipment, products, and services; and the directs Secretary to provide to each recipient of funds a notice describing these requirements. (Sec. 932)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(16) Report Regarding Genetically Engineered foods.

The House bill instructs the Secretary, through the National Academy of Sciences to complete and transmit a report to Congress including the data and test needed to assess human health risk from consumption of genetically engineered foods; the types of monitoring systems that should be created for future assessment; and a federal regulatory structure to approve such foods as safe for human consumption. (Sec. 933)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(17) Market Name for Pangasius Fish Species.

The House bill clarifies that the term catfish may not be considered a common or usual name for the fish *Pangasius bocourti*, or any other fish not classified within the family Ictalariidae, including the importation of such fish pursuant to section 801 of the Federal Food, Drug and Cosmetic Act. (Section 934)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with amendment to clarify labeling restrictions of catfish pursuant to the Federal Food, Drug and Cosmetic Act. (Sec. 10806)

(18) Program of Public Education Regarding Use of Biotechnology in Producing Food for Human Consumption.

The House bill instructs the Secretary to develop and implement a program to communicate with the public regarding the use of biotechnology in producing food for human consumption, including science-based evidence of the safety of such foods and the human outcomes of biotechnology used to produce food for human consumption. (Sec. 935)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10802)

(19) GAO Study.

The House bill instructs the Comptroller General to conduct a study and make findings and recommendations with respect to determining how producer income would be affected by updating yield bases. The comptroller shall submit a report to Congress not later than 6 months after the date of enactment. (Sec. 936)

The Senate amendment contained no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10903)

(20) Interagency Task Force on Agricultural Competition.

The House Bill instructs the Secretary to, within 90 days of enactment, establish an Interagency Task Force on Agricultural Competition, consisting of 9 employees of the Department of Agriculture and the Department of Justice. The task force shall conduct hearings to review the lessening of competition among purchases of livestock, poultry, and unprocessed agricultural commodities. The task force shall submit a report to the committee of Agriculture in both the House and the Senate within 1 year after the last member of the task force is appointed. (Sec. 937)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(21) Authorization for Additional Staff and Funding for the Grain Inspection, Packers, and Stockyards Administration.

The House bill authorizes to be appropriated such sums as are necessary to enhance the capability of GIPSA to monitor, investigate, and pursue the competitive implications of structural changes in the meat packing industry. Sums are specifically earmarked to hire litigating attorneys to allow GIPSA to more comprehensively and effectively pursue its enforcement activities. (Sec. 938)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(22) Enforcement of the Humane Methods of Slaughter Act of 1958.

The House bill (1) added the following findings:

- Public demand for passage of P.L. 85-765;
- The Humane Method of Slaughter Act of 1958 requires that animals be rendered insensible to pain when they are slaughtered;
- Scientific evidence indicates that treating animals humanely result in tangible economic benefits;
- The United States Animal Health Association passed a resolution to encourage strong enforcement of the Act;
- The Secretary of Agriculture is responsible for enforcing the Act, including monitoring and compliance;

(2) expressed the Sense of Congress that the Secretary should fully enforce P.L. 85-765 by ensuring humane methods in the slaughter of livestock; and (3) determined it is the policy of the U.S. that the slaughter of livestock and handling of livestock in connection with slaughter shall be carried out only by humane methods, as proved by P.L. 85-765. (Sec. 939)

The Senate amendment provided for the same general intent as the House provision, but with drafting differences. (Sec. 1067)

The Conference substitute adopts the House provision with an amendment eliminating Congressional findings. In Sec. 1067(1)(A) “resume” is changed to “continue” with regard to the reporting requirement. The Managers expect the Department to include a report on violations of this Act in its annual report to Congress. (Sec. 10305)

(23) Penalties and Foreign Commerce Provisions of the Animal Welfare Act

The House bill increased the penalties provided by current law, by raising the maximum penalty for violation from \$5,000 to \$15,000 and raising the maximum imprisonment for violation from 1 year to 2 years and also closes the “foreign commerce loophole” by prohibiting transportation of animals for fighting purposes from any state into any foreign country effective 30 days after enactment. (Sec. 940)

The Senate amendment is identical to the House provision. (Sec. 1052)

The Conference substitute also provides an amendment to eliminate the increase in maximum prison terms found in the House and Senate provision. (Sec. 10303)

(24) Prohibition on Interstate Movement of Animals for Animal Fighting

The House bill amends Sec. 26(d) of the Animal Welfare Act to prohibit the interstate shipment of birds for fighting purposes. (Sec. 941)

The Senate amendment is identical to the House provision. (Sec. 1053)

The Conference substitute made technical changes to make it illegal ship a bird in interstate commerce for the purpose of engaging in a animal fight and further, makes it illegal to fight a bird in a fight in which any bird in the fight was transported illegally. (Sec. 10302)

(25) Renewable Energy Resources

The House bill expands the purpose of the Environmental Quality Incentives Program to include assistance to farmer and ranchers for the assessment and development of their on-farm renewable resources, including biomass for production of power and fuel, wind and solar. (Section 942a)

The House bill also provides that the Secretary of Agriculture, through the Cooperative State Research, Education, and Extension Service and, to the extent practicable, in collaboration with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other appropriate entities, may provide education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources, including biomass for the production of power and fuels, wind, solar, and geothermal. (Section 942b)

The Senate amendment provides that the Secretary, acting through the Cooperative State Research, Education, and Extension Service in consultation with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other entities as appropriate, may provide for education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources. The Secretary may retain up to 4 percent to pay administrative expenses incurred in carrying out this section. (Section 902)

The Conference substitute deletes both the House and Senate provisions.

The Managers encourage the Cooperative State Research, Education, and Extension Service to provide education and technical assistance to agricultural producers for the development of renewable energy resources. Such assistance should enable producers to become more energy efficient and provide for the development and marketing of renewable energy resources. In assisting producers, the Cooperative Extension Service may consult with other entities as appropriate.

(26) Use of Amounts Provided for Fixed, Decoupled Payments to Provide Necessary Funds for Rural Development Programs.

The House bill reduces the total amount payable under Sec. 104 (Fixed Decoupled Payments) of the Act on a pro rata basis, so that the total amount of such reductions equals \$100,000,000, fiscal years 2002-2001.

The House bill expends such sums as follows:

A) \$45,000,000 for grants under 306A of the Consolidated Farm and Rural Development Act (relating to the community water assistance grant program);

(B) \$45,000,000 for grants under 613 of this Act (relating to the pilot program for development and implementation of strategic regional development plans); and (C) \$10,000,000 for grants under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (relating to value-added agricultural product market development grants). (Section 943)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(27) Country of Origin Labeling of Perishable Agricultural Commodities.

The House bill amends the Perishable Agricultural Commodities Act, 7 USC 499a, to mandate country of origin labeling on all perishable agriculture commodities, including both imported and domestically produced commodities by adding the following sections:

Sec. 18(a) A retailer of a perishable agricultural commodity shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity. This applies to both imported and domestically produced commodities.

Sec. 18(b) Provides an exemption for the labeling requirements for perishable agricultural commodities that are prepared in a food establishment, sold or offered for sale at the food service establishment in normal retail quantities and served to consumers at the food service establishment.

Sec 18(c) The information regarding the country of origin may be provided to consumers via a label, stamp, mark, placard, or other clear and visible sign on the perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. A retailer is not required to provide any additional information on a commodity that has already been individually labeled with the country of origin by the packer, importer, or other individual.

USDA may assess Sec. 18(d) Civil penalties (\$1,000 for the first day the violation occurs; \$250 for each day the violation continues) against any retailer who fails to indicate the country of origin.

Sec. 18(e) Amounts collected under subsection (d) shall be deposited in the Treasury.

The House bill states the provision would take effect six month following enactment. (Section 944)

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). Sec. 281 & Sec. 282(a)(1) requires labeling for muscle cuts and ground beef, lamb and pork as well as farm-raised fish and shellfish (including steaks, nuggets and any other flesh from farmed raised fish and shellfish) and produce as defined in the Perishable Agricultural Commodities Act.

Sec. 282(a)(2) Only those products that are exclusively born, raised and slaughtered, hatched, raised, harvested, and processed and produced in the U.S. may be designated as U.S. country of origin.

Sec 282(b) Subsection (a) shall not apply if the covered commodity is prepared or served in a food service establishment and offered for sale or sold at the food service

establishment in normal retail quantities or served to consumers at the food service establishment.

Sec. 282(c) The information regarding the country of origin may be provided to consumers via a label, stamp, mark, placard, or other clear and visible sign on the perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

Sec. 282(d) Those who prepare, store, handle or distribute a covered commodity shall maintain a verifiable record keeping an audit trail.

Sec. 282(e) Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

Sec. 282(f) The Secretary shall not establish a mandatory identification system to verify the country of origin of a covered commodity. Model certification programs the Secretary can use for verification purposes include the carcass grading system, voluntary country of origin beef labeling system, and those systems used to carry out market access program under the Agricultural Trade Act and the National School Lunch Act.

Sec. 283 The Secretary of USDA will notify a retailer if a violation is found, give the retailer 30 days to cure, provide notice and an opportunity for a hearing and may fine the retailer in an amount determined by the Secretary.

Sec. 284 The Secretary may promulgate regulations and may enter into partnerships with individual states for enforcement purposes.

Sec. 285 Takes effect 180 days following enactment. (Sec. 1001)

The Conference substitute adopts the Senate language with an amendment to provide for the implementation of two-years of voluntary guidelines to precede mandatory labeling. The exclusion from a covered commodity has been further defined to include items that are an ingredient in a processed food item. The conference substitute provides that animals trans-shipped from Alaska or Hawaii through Canada shall be eligible to be designated as "U.S. Country of Origin" as long as the period of trans-shipment does not exceed 60 days. (Sec. 10506)

(28) Unlawful Stockyard Practices Involving Nonambulatory Livestock

The House bill amends Title III of the Packers and Stockyards Act, 1921 by adding following on Sec. 318:

Sec. 318(a) defines the terms: humanely euthanize and nonambulatory livestock.

Sec. 318(b)(1) It shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

Sec. 318(b)(2) provides exceptions.

Sec. 318 (c) stipulates that the application of this prohibition is to commence one year after enactment of the Farm Security Act of 2001. The Secretary shall promulgate regulations to carry out this section. (Sec. 945)

The Senate amendment is a substantively identical provision with the following difference: Sec. 318 (c) stipulates that the application of this prohibition is to commence one year after enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2002. (Sec.1045)

The Conference substitute adopts the House provision with an amendment to

require the Secretary to investigate the problem of nonambulatory livestock and report the findings to Congress. Based on the findings of the report the Secretary shall promulgate regulations if the Secretary deems them necessary to regulate the humane treatment, handling and disposition of nonambulatory livestock. The Conference substitute provides for investigative and penalty authority consistent with the Animal Health Protection Act. (Sec. 10502)

(29) Annual Report on Imports of Beef and Pork.

The House bill requires the Secretary of Agriculture to submit to Congress an annual report on the amount of beef and pork that is imported into the U.S. each calendar year. (Sec. 946)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(30) Quality Grade Labeling of Imported Meat and Meat Food Products

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.):

Sec. 291 defines the Secretary;

Sec. 292 prevents an imported carcass, part thereof, meat, or meat food product (as defined by the Secretary) from bearing a quality grade label issued by the Secretary;

Sec. 293 Secretary to promulgate regulations. (Sec.1002)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(31) Continuous Coverage

The Senate amendment amends Section 508(e)(4) of the Federal Crop Insurance Act to impose a permanent prohibition on the availability of continuous coverage. (Sec. 1012)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10002)

(32) Quality Loss Adjustment Procedures

The Senate amendment amends Sec. 508(m) of the Federal Crop Insurance Act to require the Federal Crop Insurance Corporation to implement quality loss adjustment procedure review recommendations effective for the 2003 reinsurance year. (Sec. 1013)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to implement recommendations effective for the 2004 reinsurance year and provides additional language to require the Secretary, for purposes of quality loss adjustment under the Federal crop insurance program, to allow certain classifications of warehouse operators to make adjustments for quality. Should the Secretary find that this provision causes fraud and abuse of the Federal crop insurance program by warehouse operators, the Managers intend for the Secretary to take appropriate measures against those operators to alleviate the problem. (Sec. 10003)

It is the intent of the Managers that quality loss adjustments reflect market discounts in the year of adjustment. The term “local” outlined in Section 508(m) of the Federal Crop Insurance Act may include discounts determined based on regional surveys.

(33) Conservation Requirements

The Senate Amendment amends Section 1211(1) and Section 1221(b) of the Food Security Act of 1985 and Section 519(b) of the Controlled Substances Act to prohibit the issuance of an indemnity payment under the Federal Crop Insurance Act to a producer who has planted on highly erodible land, converted wetland, or has produced a controlled substance (Sec. 1014).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Animal Health Protection

The Senate amendment provides for the consolidation and updating of existing animal health authorities at USDA. (Sec.1021 to Sec.1038)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments 1) regarding the definition of disease (S1023.CR10403) 2) requires notification to the Secretary of Treasury as well as public notification regarding development of rules on restrictions of imports (S1024. CR10404) 3) directs the Secretary of Agriculture to consult with State animal health officials and veterinary health professionals regarding the establishment of the veterinary accreditation program, gives guidelines for suspension or revocation of accreditation of any veterinarian accredited under this subtitle that violates this subtitle, and clarifies that the criminal and civil penalties in section 1034 shall not apply to violations of this section that are not violations of any other provision of this subtitle (S1030. CR10410) 4) establishes increased criminal penalties in cases of violations of the Animal Health Protection Act involving persons knowingly destroying records or moving pests in commerce for distribution. Criminal penalties are likewise increased in cases of persons who have committed multiple violations of the Animal Health Protection Act. Strike the provision of Section 1034 regarding criminal and civil penalties relating to suspension or revocation of accreditation. (S1034. CR10414) 5) authorization of appropriations and to provide for more efficient management of declarations of extraordinary emergencies and transfer of funds from the Commodity Credit Corporation (S1037.CR 10417) 6) strikes the repeal of the Pseudorabies Eradication Program which is reauthorized in the Conference substitute in Section 10507. (S1038. CR10418)

The managers recognize that the principal purpose of the Animal Health Protection Act is to protect against animal disease. With this in mind, the managers have considered numerous options with regard to a statutory definition of disease. In considering these options, the managers were concerned that an overly broad definition could result in litigation forcing the Agency to divert scarce resources to protecting against conditions which have little if anything to do with the scientific understanding of disease. Likewise, the managers were equally concerned that an arbitrarily narrow definition would limit the ability of the Agency to respond to as of yet unknown threats to animal health. The managers have therefore concluded that in order for the Agency to

have maximum flexibility to focus its resources and respond to new or emerging disease threats that a regulatory definition of disease should be left to the discretion of the Secretary. In so doing, the managers strongly encourage the Secretary to continually reexamine the principal definitions developed during implementation of this statute and make such changes as deemed necessary to achieve the goal of protecting animal health.

It is also the Managers intent that nothing in the Act should be construed in a manner that will unduly restrict or delay the importation, export, or transportation of biomedical research materials, including tissues, specimens, samples, animal embryos, or animals designated for use in research. The Managers do not expect the Secretary to issue any rule or regulation that would unduly restrict or delay the importation, export, or transportation of biomedical research materials, including tissues, specimens, samples, animal embryos, or animals designated for use in research.

It is the Managers understanding that Veterinary Services, within the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), has a long history of cooperation with the veterinary community in performing important regulatory work nationwide. Private practitioners were first used to perform regulatory work in 1907. However, the current voluntary accreditation program (National Veterinary Accreditation Program) officially began in 1921, when USDA, Bureau of Animal Industry, administered the first accreditation examination to certify practitioners as representatives of the Federal government. Accredited veterinarians are the backbone of U.S. regulatory programs for livestock and poultry diseases. The overriding goal of the National Veterinary Accreditation Program is for Veterinary Services, veterinarians, State Animal Health Officials and veterinary colleges to work cooperatively toward the goal of protecting and improving the health, quality, and marketability of U.S. animals. Increased collaboration will be crucial to the success of new enhancements to this program. It is the intent of the Managers that APHIS' existing Veterinary Accreditation Program and implementing regulations continue unimpeded pursuant to section 1038 (c). With regard to future revisions by APHIS to its Veterinary Accreditation Program, the Managers strongly encourage APHIS' Veterinary Services to consult with State animal health officials and veterinary professionals, including State Veterinary Medical Associations and private veterinary practitioners.

The Managers note that USDA currently is evaluating three rapid screening tests to determine which is the most sensitive and effective at detecting scrapie. Ensuring proper screening and testing, and, where necessary, the eradication of animal diseases, is of paramount importance to American Agriculture, USDA, the Congress, and the American people. With the stakes to animal health and the farm economy so high, the U.S. government should use the very best methods available to detect animal diseases. Accordingly, the Managers request that USDA use science-based criteria to evaluate the tests under review and invite third-party animal health diagnostic test experts to review preliminary findings and evaluation methodology.

The purpose of the Animal Health Protection Act is to address pest and disease threats to animal health and production. The managers do not intend for the Animal Health Protection Act to be used to manage or control predation. The Managers expect the Secretary of Agriculture to continue to use the authorities under the Act of March 2, 1931 (7 U.S.C. 426-426b) as amended.

In a case of extraordinary emergency, the section regarding seizure, quarantine, and disposal provides express authority in the Secretary to hold, seize, treat, and apply

other remedial actions to or destroy or otherwise dispose of any animal. However, nothing in this section or in this title should be construed as impliedly vesting in the Secretary authority to manage fish or wildlife populations. If fish or wildlife is affected by control or eradication measures proposed by the Secretary in an extraordinary emergency, the Managers expect that the Secretary will consult with officials of the State agency having authority for protection and management of such wildlife, as is the current practice in such instances.

(35) Pesticide Fees

The Senate amendment (1) amends the FIFRA, with respect to the pesticide registration maintenance fee system, to: (a) make uniform the amount of the annual fee for each registration; (b) set maximum amounts payable by a registrant and an increased aggregate amount of collected fees; (c) expand the definition of a small business; and (d) extend the authority to collect such fees and the prohibition on levy of fees other than those specified in the Act's fee provisions; (2) extends the requirement that the Administrator use maintenance fees to ensure expedited processing of similar applications and adds a requirement that the fees be used to review inert ingredients; (3) the Administrator the authority to change current fee amounts by the same percentage as the annual adjustment to the Federal General Schedule pay scale. If fully implemented the total cost of the provision will be \$214 million over 4 years. (Sec.1041)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

On June 9, 1999, EPA proposed a rule, "Pesticides; Tolerance Processing Fees Proposed Rule," 64 FR 31039, Docket Number OPP-30115. EPA proposed to increase tolerance fees dramatically and to collect fees retroactively back to 1996. The Managers question the legal basis and are concerned about imposing fees retroactively and with the proposed level of fees. Retroactive imposition of increased tolerance fees, if imposed, could result in unnecessary loss of valuable pesticide products for American farmers. The Managers strongly encourage the EPA to withdraw its proposed tolerance fee rule, and instead, work with the appropriate oversight committees in the House of Representatives and the U.S. Senate to develop comprehensive pesticide user fee legislation.

The Managers continue to be concerned that the Administrator has yet to issue protocols for the issuance of registrations for antimicrobials under the Food Quality Protection Act. The Managers expect the Administrator to expeditiously develop and implement these protocols. The Managers further expect the Administrator to give full consideration to an exemption under Sec. 25(b) of the Federal Insecticide, Fungicide and Rodenticide Act (7 USC 136) for antimicrobial products approved for use in food packaging immediately before aseptic fill.

(36) Pest Management in Schools.

The Senate amendment amends FIFRA to create a new section 33, "School Environment Protection Act of 2002" that requires Pest Management in Schools. Requires states to develop pest management plans as part of state cooperative enforcement agreements with the EPA. Sets requirements for what should be included in plans and requires the EPA to distribute guidelines to states no later than one year after enactment, after which State educational agencies would be required to develop plans and

submit them to the Administrator for approval. Local education agencies would be required to implement their state plan within one year of receiving it. (Sec. 1042).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(37) Packer Ownership.

The Senate amendment amends Section 202 of the Packers and Stockyards Act of 1921 (7 U.S.C. 192(f)) (as amended by section 1043(a)) by banning ownership or control of livestock by a packer prior to 14 days before slaughter. An exemption from the ban is provided for any packer that is a cooperative entity with a majority ownership interest held by livestock producers who own, feed or control their own livestock which are provided to the cooperative for slaughter, or for any packer who kills less than 2 percent of the total U.S. annual slaughter for that type of livestock. In general, the ban becomes effective upon enactment of the Act, but packers of swine would not be required to complete livestock divestitures until 18 months following the enactment of the Act. For packers of any other type of livestock, the ban would become effective no later than 180 days following enactment of the Act. (Section 1043, amended by Sec. 1072 of the Senate amendment below).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize the importance of Congress holding hearings to address issues affecting livestock producers, such as agribusiness consolidation, and livestock marketing issues.

(38) Packers and Stockyards

The Senate amendment (1) amends Section 2(a) of the Packers and Stockyards Act by adding definitions of ‘livestock contractor’, ‘livestock production contract’, and ‘livestock production contract grower’; (2) Amends sections 202, 203, 205, 204, 308, 401, and 403 of the P&S Act to include “livestock contractor” as a covered entity under the P&S Act; (3) adds new section 417 to the P&S Act that allows, notwithstanding a provision of a livestock or poultry contract, a party to the contract to discuss terms of the contract with a legal advisor, a lender, an accountant, an executive or manager, a landlord, a family member, or a Federal or State agency with responsibility for enforcing a statute designed to protect a party to the contract. (Sec.1044)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that includes only swine production contractors as a covered entity under the P&S Act. (Sec. 10503) The amendment was rewritten so that the disclosure and preemption provisions appear in Sec. 10504. This section clarifies that people can discuss contracts with state & federal agencies and certain other individuals. The language does not preempt any state law that addresses confidentiality provisions in contracts for the sale or production of livestock or poultry except any provision of state law that makes lawful a contract provision that prohibits a party from or limits a party in engaging in a discussion that this section otherwise requires to be permitted.

(39) Arbitration Clauses.

The Senate amendment adds No Comparable Provision 413A to the Packers and Stockyards Act that states that a person that seeks to resolve a dispute in the contract may, notwithstanding the terms of the contract, elect to arbitrate the dispute in accordance with the contract; or resolve the dispute in accordance any other lawful method of dispute resolution, including mediation and civil action. (Sec.1046)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(40) Cotton Classification Services

The Senate amendment amends the first sentence of section 3a of the Act of March 3, 1927 (commonly known as the 'Cotton Statistics and Estimates Act') by striking '2002' and inserting '2006'. (Sec. 1047)

The House bill had an identical provision contained in the Research Title. (Sec. 740)

The Conference substitute adopts the Senate provision with technical and clarifying amendments and extends the program through 2007. (Sec. 10801)

(41) Protection for Purchasers of Farm Products.

The Senate amendment (1) amends Section 1324 subsection (c)(4)(B) of the Food Security Act of 1985 by striking signed, and inserting signed, authorized, or otherwise authenticated by the debtor and (2) amends subsection (c)(4) by striking subsection (C); (2) amends subsection (c)(4)(D)(iv) by striking applicable and all that follows and inserting applicable, and the name of each county or parish in which the farm products are growing or located;(3) redesignates subparagraph numbering; (4) amends subsection (e)(1)(A)(ii)(IV) by striking crop year, and all that follows and inserting crop year, and the name of each county or parish in which the farm products are growing or located;(5) amends subsection (c)(4)(D)(iv) by inserting contains before any payment;(6) the same changes are made in subsection (g)(2)(A). (Sec. 1048)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10604)

(42) Improved Standards for the Care and Treatment of Certain Animals.

The Senate amendment provides for the socialization of puppies intended for sale as pets, and prohibits female dogs from being bred before they are one year old, or from having more than three litters every two years. The Act also establishes a "three strikes" system for AWA licensees that commit 3 or more serious violations of the Act over an eight-year period. (Sec.1049)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(43) Farmers Market Promotion Program

The Senate amendment (1) makes minor technical changes to the Sec. 4 and Sec. 5 of the Farmer-to-Consumer Direct Marketing Act of 1976; (2) amends Sec. 5 to include a Development of Farmers Markets whereby the Secretary of Agriculture will work to train managers of farmers markets, develop opportunities to share information among

managers of farmers markets, develop a program to train extension service employees in the development of direct marketing techniques, and work with producers to develop farmers markets; (3) amends the Farmer-to-Consumer Direct Marketing Act of 1976 by adding Sec. 6 to establish the Farmers' Market Promotion Program to make grants to eligible entities to establish, expand and promote farmers' markets. (Sec. 1050)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make minor technical changes to Section 4 and Section 5, only authorizes the new Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976, and further prohibits the use of funds appropriated under this new section for construction of buildings or structures. (Sec.10605)

(44) Definition of Animal under the Animal Welfare Act.

The Senate amendment amended the definition of animal to add birds, rats, and mice bred for use in research to the list of those animals excluded from coverage under the Animal Welfare Act. (Sec.1051)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10301)

(45) Wild Fish and Wild Shellfish

The Senate amendment amends section 2104 of the Organic Foods Production Act of 1990 by inserting a new subsection (c) to provide, notwithstanding section 2107(a) (i.e., notwithstanding the requirement that an organic product be farm-raised), the Secretary may allow for certification and labeling of wild fish and wild shellfish harvested from salt water as organic, following a rulemaking. In doing this, The Secretary is required to consult with the Secretary of Commerce; the National Organics Standards Board; producers, processors, and sellers; and interested members of the public; and to the maximum extent practicable, the Secretary is to accommodate the unique characteristics of the industries in the United States that harvest and process wild fish and wild shellfish. (Sec.1055)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(46) Assistant Secretary of Agriculture for Civil Rights.

The Senate amendment directs the Secretary to establish within USDA a position of Assistant Secretary of Agriculture for Civil Rights. President shall appoint the Assistant Secretary with the advice and consent of the Senate. Duties include enforcing and coordinating compliance with all civil rights laws; ensuring that USDA has measurable goals for fair and nondiscriminatory treatment; compiling and disclosing data used in assessing civil rights compliance in the socially disadvantaged farmer program; holding USDA agency heads and senior executives accountable for civil rights compliance and assessing their performance; ensuring that there is sufficient level of participation by socially disadvantaged farmers and ranchers in deliberations of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and that participation and election data are made publicly available. (Sec.1056)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that ensures the new Assistant Secretary of Agriculture for Civil Rights is under the authority of the Secretary of Agriculture. (Sec. 10704)

(47) Transparency and Accountability for Socially Disadvantaged Farmers and Ranchers; Public Disclosure Requirements for County Committee Elections.

The Senate amendment:

(1) Amends the Food, Agriculture, Conservation and Trade Act of 1990 by inserting Sec. 2501A to ensure compilation and disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the department;

(2) Amends Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act by striking subparagraph (B) and replacing it with a modified subparagraph (B), which in addition to those things already required under current law: Requires that each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary;

(3) Sets forth procedure for the opening of ballots as follows:

At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted. Election ballots shall not be opened until the date and time announced. Any person may observe the opening and counting of the election ballots;

(4) Requires that not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency;

(5) Requires that not later than 90 days after the date of the election, the Secretary shall complete a report that consolidates all the election data reported to the Secretary;

(6) Provides that, if after analyzing the election data it is necessary, the Secretary shall promulgate proposed uniform guidelines for conducting elections;

(7) Provides that the term of office for a member of a county, area, or local committee shall not exceed 3 years; and

(8) provides that the Secretary shall maintain and make readily available to the public all the data required to be collected under this section. (Sec. 1057)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to require the Secretary to report participation rates of socially-disadvantaged farmers and ranchers by race, ethnicity and gender and in those instances when socially-disadvantaged farmers or ranchers are not adequately represented on a local or area committee, the Secretary may appoint one additional voting member to the local or area committee. (Sec. 10708)

(48) Animal Terrorism Penalties

The Senate amendment amends title 18 USC 43 to revise and enhance criminal penalties and restitution for offenses against animal enterprises. Subsection (a) of existing law for offenses causing economic damages is revised to add a 6 month sentence

and/or fines for offenses involving less than \$10,000 in economic damages and increases the penalty for offenses causing more than \$10,000 from one to three years, plus retaining fines.

Subsection (b) is revised to increase the penalty for offenses causing serious bodily injury from 10 to 20 years, plus adding the possibility of a fine, or both, and for an offense causing death adding the possibility of a fine, or both a fine and criminal penalty, to the existing law penalties of life or a term of years.

Subsection (c) is amended to allow restitution for "any other economic damage resulting from the offense". (Sec. 1058)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(49) Pseudorabies Eradication Program

The Senate amendment amends Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 by striking '2002' and inserting '2006'. (Sec. 1059)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the Pseudorabies Eradication Program to 2007. (Sec. 10507)

(50) Transportation of Poultry and Other Animals

The Senate amendment amends the FY 02 Treasury Appropriations measure which provides a provision allowing the Postal Service to require air carriers to accept as mail, day old poultry if the air carrier allows the shipment of any live animals as cargo. The Appropriations provision only covers the period through June 30, 2002. The Senate provision makes the provision in the Appropriations bill permanent. (Sec. 1060)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include honeybees. (Sec. 10501)

(51) Emergency Grants to Low-Income, Migrant and Seasonal Farm workers.

The Senate amendment amends Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 by specifying an authorization for appropriations at \$40,000,000 for each fiscal year. (Sec. 1061)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as are necessary. (Sec. 10102)

(52) Preclearance Quarantine Inspections.

The Senate amendment adds a no comparable provision to the FACT Act to require the APHIS to conduct preclearance quarantine inspections at all direct departure and interline airports of persons, baggage, cargo and other items destined from Hawaii to the U.S. mainland, Guam, Puerto Rico, and the U.S. Virgin Islands, but provides this provision shall not be implemented unless the APHIS appropriation for inspection, quarantine, and regulatory activities is increased by \$3,000,000 in a non-Agriculture FY 2002 appropriations act. (Sec. 1063)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize appropriations in fiscal year 2003. (Sec. 10811)

(53) Emergency Loans for Seed Producers.

The Senate amendment amended Section 253(b)(5)(B) of the Agricultural Risk Protection Act of 2000 regarding loans to seed producers who were unsecured creditors of a seed company that filed for bankruptcy in 2000. The provision changed the duration of these loans from 18 months to 54 months. (Sec 1064)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the duration of the loans from 18 months to 36 months. (Sec.10103)

(54) National Organic Certification Cost Share Program

The Senate amendment directs the Secretary of Agriculture (acting through the Agricultural Marketing Service) to use \$3,500,000 of Commodity Credit Corporation funds for each of the fiscal years 2002 through 2004, and \$3,000,000 for fiscal year 2005 to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the National Organic Production Program established under the Organic Foods Production Act of 1990. Maximum federal cost share is 75% and the maximum amount of a payment made to a producer or handler under this provision shall be \$500. (Sec. 1065)

The House Bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing in fiscal year 2002, \$5,000,000 to remain available until expended to (in a cost-share manner) assist producers and handlers of organic agricultural products in obtaining certification under the National Organic Production Program established under the Organic Foods Production Act of 1990. (Sec. 10606)

The Managers urge the Secretary to assist producers, processors and firms interested in shifting production into organic products in making this transition and, to the extent possible, work to eliminate unnecessary, over burdensome and any other barriers to this process. As soon as practicable, the Secretary is urged to undertake a study to ascertain the availability of key inputs into organic production, including the availability of organically produced feedstuffs for the organic production of livestock and poultry.

(55) Food Safety Commission

The Senate amendment establishes the Food Safety Commission composed of 15 members from consumer groups; food processors, producers, and retailers; public health professionals; food inspectors; former or current food safety regulators; members of academia; or any other interested individuals. The Commission shall make specific recommendations that build on and implement, to the maximum extent practicable, the recommendations contained in the report of the National Academy of Sciences entitled Ensuring Safe Food from Production to Consumption and that shall serve as the basis for draft legislative language to improve the food safety system; improve public health; create a harmonized, central framework for managing Federal food safety programs (including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research, and education); enhance the effectiveness of Federal food safety resources; and eliminate, to the maximum extent practicable, gaps,

conflicts, duplication, and failures in the food safety system. Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress a comprehensive report.

The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the recommendations and report. (Sec. 1066)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that members be appointed by the President, changing the eligibility standards for appointees, and requiring the Commission's recommendations to include descriptions of how each would improve food safety. (Sec. 10807)

The Managers expect that the Commission shall make recommendations to improve public health, help create a harmonized framework for managing Federal food safety programs (including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research and education), and enhance the effectiveness of Federal food safety resources (including the application of all resources based on risk, including resources for inspection, research, enforcement, and education).

The recommendations should build on, to the maximum extent practicable, the recommendations contained in the report of the National Academy of Sciences entitled 'Ensuring Safe Food from Production to Consumption'.

(56) Penalties for Violations of Plant Protection Act.

The Senate amendment amends criminal penalty provisions of the Plant Protection Act (7 U.S.C. 7734) to include felony and misdemeanor penalties. Violations involving plant pests, more than 50 pounds of plants, more than 5 pounds of plant products, more than 50 pounds of noxious weeds, possession with the intent to distribute items known to be in violation of this Act, or any fraud involving official documents issued under this act shall be subject to felony penalties (not more than 5 years imprisonment and/or not more than \$25000 fine). Misdemeanor penalties (not more than 1 year imprisonment and/or not more than \$1000 fine) for violations involving less than 50 pounds of plants, less than 5 pounds of plant products, or less than 50 pounds of noxious weeds. Felony and misdemeanor penalty limits are increased for second and subsequent violations. Violations involving intent to harm U.S. agriculture would be subject to not less than 10 years, nor more than 20 years imprisonments and/or a fine not to exceed \$500,000. Finally, additional sections are added authorizing criminal and civil forfeiture for violations other than misdemeanors. (Sec. 1068)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to establish increased criminal penalties in cases of violations of the Plant Protection Act involving persons knowingly destroying records or moving pests in commerce for distribution. Criminal penalties are likewise increased in cases of persons who have committed multiple violations of the Plant Protection Act. (Sec. 10810)

The Managers encourage the Secretary to consider the need for the post-harvest treatment of imported and domestic agricultural products, and for untreated agricultural products moving into or through the United States, for fruit flies and other plant pests and diseases to improve the protection of domestic crops from plant pests and diseases. Such facilities could be located in ports of entry on the border between the United States and

Mexico from Nogales, Arizona to Galveston, Texas as well as in Wilmington, North Carolina, Atlanta, Georgia, Gulfport, Mississippi, and Seattle, Washington.

(57) Connecticut River Atlantic Salmon Commission.

The Senate amendment changes the effective period of the Connecticut River Atlantic Salmon Commission from 20 to 40 years and authorizes \$9,000,000 for each of fiscal years 2002 through 2010 to the Secretary of the Interior to carry out the activities of the Connecticut River Atlantic Salmon Commission. (Sec. 1069)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the compact and strike the authorization of appropriations. (Sec. 10812)

(58) Bear Protection.

The Senate amendment prohibits movement in interstate or foreign commerce of bear viscera – defined as the body fluids and organs, not including blood or brains, of any species of bear. Exceptions are made for wildlife law enforcement purposes, and nothing in this section affects state regulation of bear populations or any hunting of bears allowed under state law and establishes civil and criminal penalties for violations. (Sec. 1070)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(59) Family Farmer Bankruptcy Provisions.

The Senate amendment makes permanent Chapter 12 of the bankruptcy code effective, October 1, 2001, the date on which the section lapsed. Chapter 12 covers bankruptcies where the total debts can be no more than \$1.5 million, where 50% of the income and 80% of the debts are farm related. (Sec. 1071)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend Chapter 12 Bankruptcy through December 31, 2002. (Sec. 10814)

(60) Packer Ownership.

The Senate amendment adds a new subsection to the Packers and Stockyards Act that prohibits meatpackers from owning or feeding livestock directly, through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the operation with respect to the production of the livestock.

Exempts from prohibition

1. Arrangements entered into within 14 days before slaughter;
2. A cooperative or entity owned by a cooperative, if a majority of the ownership interest in the coop is held by active coop members that own, feed, or control livestock and provide the livestock to the coop; and
3. A packer that is owned by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock in the U.S. (Sec. 1072 which amends Sec. 1043)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(61) Hass Avocados.

The Senate amendment (1) amends Section 1205 to require the Secretary to revisit the issue of seat allocation on the board; (2) amends subsection (h)(1)(C)(iii) by allowing importers to pay the assessment “not less than 30 days after the avocado clears customs, unless deemed not feasible as determined by the Commissioner of Customs and the Secretary”. (Sec. 1073)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(62) Social Security Surplus Funds.

The Senate amendment expresses the Sense of the Senate regarding social Security; that no social security surplus funds should be used to make currently scheduled tax cuts permanent or for wasteful spending. (Sec. 1074)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(63) Repeal of Estate Taxes.

The Senate amendment expresses the Sense of the Senate that the repeal of the estate tax should be made permanent by eliminating the sunset provision’s applicability to the estate tax. That estate tax provision expires on Dec 31, 2010. (Sec. 1075)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(64) Commercial Fisheries Failure.

The Senate amendment permanently revokes Northeast U.S. multi-species fishing permits using a “reverse auction,” method, a method developed to remove the maximum amount of capacity from the fishery at the lowest possible price to the taxpayers. The goal is to reduce the total number of days multi-species fishing is allowed in certain areas off the New England coast because of depletion of key fish species. \$10 million is provided in CCC funds for the purpose; USDA with consultation with the Department of Commerce would administer the program. The provision provides for expedited procedures under an existing rule but does not prevent alternative rules if developed. The provision remains in effect for 1 year. (Sec. 1076)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary. (Sec. 10107)

(65) State Meat Inspection Programs

The Senate amendment (1) requires the Secretary not later than September 30, 2003, to conduct a comprehensive review of each State meat and poultry inspection program, to include--

- An analysis of the effectiveness of the State program;
- Identification of changes necessary to enable the possible transformation of the State program to a State program that includes the mandatory requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act;

(2) Requires the Secretary to obtain comment from interested parties in carrying out the review and authorizes appropriations. (Sec. 1077)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize that it is the policy of Congress to ensure that consumers continue to have access to a safe, wholesome, abundant and affordable supply of meat and meat food products. The Managers further believe the goal of providing a safe, wholesome, abundant and affordable supply of meat and meat food products throughout the United States is achieved, in part, through the role played by both State and Federal food safety inspection systems. The State and Federal meat inspection programs should continue to function together to create an inspection system that ensures food safety and increases consumer confidence in the food supply in both intrastate and interstate commerce. The Managers recognize that these goals cannot be met in the absence of viable State meat inspection programs that help to foster the participation of smaller establishments in the food production economy. Therefore, the Managers intend that when the Secretary of Agriculture submits the annual report to Congress on the activities of the Food Safety Inspection Service, the Secretary should include a full review of State inspection systems. This review should also offer guidance about changes the State systems might expect should the statutory prohibition against the interstate shipment of state inspected product be removed.

(66) Agricultural Research and Technology.

The Senate amendment authorizes such sums as necessary from 2002 through 2006 for (1) studies on the transmission of spongiform encephalopathy in deer, elk, and moose and chronic wasting disease with results to be reported to the Ag Committees; (2) a research and extension grants program to develop prevention and control methodologies for infectious animal diseases of livestock and laboratory tests to expedite detection of infected livestock and presence of disease in herds or flocks; (3) a vaccine storage study to determine how much vaccine is needed, how much is available, and directing the Secretary to take action to correct any identified shortfall; and (4) a program of veterinary training to retain sufficient capacity of State and Federal vets in all regions well-trained in recognition and diagnosis of exotic and endemic animal diseases. (Sec. 1078)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide additional discretion to the Secretary with regard to implementation of the program and authorize the program through 2007. The research and extension grant program for livestock production is deleted. A new research and extension grant program for livestock production is established within the High Priority Research and Extension grants program [See Sec. 7208]. (Sec. 10907)

(67) Office of Science Technology Policy.

The Senate amendment authorizes the President to establish an SES position in the Office of Science and Technology Policy for a Veterinary Advisor. (Sec. 1079)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The U.S. Department of Agriculture holds primary responsibility for preventing,

monitoring and responding to outbreaks of diseases that affect livestock and other animals used for agricultural purposes. Recent experiences in Europe with Bovine Spongiform Encephalopathy and with Foot and Mouth Disease, however, demonstrate that the technical expertise of other federal agencies will also be required if a similar outbreak ever erupts in the United States.

The Managers are aware of successful efforts by the White House Office of Science and Technology Policy (OSTP) to pull together and draw upon the scientific and technical expertise of experts from across the federal government to evaluate solutions to emerging problems. When these or similar problems arise, the Managers expect that OSTP will draw heavily upon the expertise of veterinarians to provide similar leadership to facilitate multi-agency efforts to prevent, detect, and respond to outbreaks of animal diseases.

(68) Operation of Agricultural and Natural Resource Programs on Tribal Lands.

The Senate amendment requires the Secretary of Agriculture with consultation of the Secretary of the Interior, to conduct a review on tribal and trust land. The review will address natural resource management programs, incentive programs and farm income support programs. The report will contain a plan to carry out actions found in this section and shall be submitted to Congress not later than 1 year after the date of enactment of this Act. (Sec 1079A)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate language with an amendment to include a report in consultation with the Secretary of the Interior and clarify that the report will apply to commodity supports, natural resource, credit and forestry programs. (Sec. 10910)

(69) Geographically Disadvantaged Farmers.

The Senate amendment, Subsection (a), (1) provides a definition of eligible entity, which includes community-based organizations with experience in serving geographically disadvantaged farmers, land-grant colleges, and national tribal organizations that have experience in serving geographically disadvantaged farmers; (2) defines geographically disadvantaged farmer as one in an insular area (as defined in 7 U.S.C. 3103); (3) requires the Secretary to carry out an assistance program to encourage and assist geographically disadvantaged farmers in owning and operating farms and participating equitably in USDA programs; (4) provides Secretary authority to make grants and enter into contracts with eligible entities to provide information and technical assistance; and (5) authorizes \$10,000,000 each year to carry out the program. (Sec. 1079B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate language with an amendment to require a report describing how to improve geographically disadvantaged farmers' participation in USDA programs. (Sec. 10906)

(70) Naming Ginseng.

The Senate amendment expresses the Sense of the Senate that the Commissioner of FDA should promulgate regulations to ensure that the name "ginseng" or any name that includes the word "ginseng" shall be used in reference to an herb or herbal ingredient

that is part of the plant of one of the species of the genus *Panax* and is produced in compliance with U.S. law regarding the use of pesticides (Sec. 1079C).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that the term “ginseng” may not be considered to be a common or usual name for any herb or herbal ingredient not derived from a plant classified within the genus *Panax*, including with respect to importation under section 801 of the Federal Food, Drug, and Cosmetic Act. (Sec. 10806)

(71) Adjusted Gross Revenue Insurance Pilot Program.

The Senate Amendment amends Section 523 of the Federal Crop Insurance Act to require the Federal Crop Insurance Corporation to expand for the 2003 reinsurance year the Adjusted Gross Revenue Insurance Pilot Program into at least 8 counties in the State that produces the highest quantity of specialty crops for which adjusted gross revenue insurance is not available. The language requires the Corporation to include those counties that produce a significant quantity of specialty crops (Sec. 1079D).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to expand the Adjusted Gross Revenue Insurance Pilot Program for the 2003 reinsurance year to at least 8 counties in the State of California and at least 8 counties in the State of Pennsylvania. The substitute language requires the Corporation to work with the respective State Departments of Agriculture to establish criteria to determine which counties to include in the pilot program. (Sec. 10004)

(72) Report on Specialty Crop Insurance

The Senate Amendment amends Section 522(e) of the Federal Crop Insurance Act to provide additional mandatory funding to reimbursements made available under research and development; amends Section 524(a)(4) of the Federal Crop Insurance Act to provide additional mandatory funding to education and information programs established under paragraph (2) of that section; provides that the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the progress made by the Corporation in research and development of innovative risk management products to include cost of production insurance that provides coverage for various crops, the progress made by the Corporation in increasing the use of risk management products offered through the Corporation by producers of specialty crops, by small- and moderate-sized farms, and in areas that are underserved, as determined by the Secretary, and how the additional funding provided under the amendments made by the section has been used. (Sec. 169(h)(3))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision pertaining only to the report with commensurate changes. The Senate language amending Section 522(e) and Section 524(a)(4) of the Federal Crop Insurance Act is deleted. (Sec. 10006)

The Managers expect the Federal Crop Insurance Corporation to fully utilize contracting allocations for research and development of policies in underserved states under Section 522(e)(2)(B) of the Federal Crop Insurance Act.

The Managers urge the Federal Crop Insurance Corporation to consider expanding its contract for research and development of a cost of production policy in order to cover as many commodities as is practicable. The Managers recognize the attraction of the cost of production plan currently under development and recommend that the current list of 12 crops be expanded over the next several years to include but not be limited to: alfalfa, apples, asparagus, avocados, bananas, barley, beans, beets, blueberries, boysenberries, broccoli, cabbage, canola, cantaloupes, carrots, cauliflower, celery, cherries, chicory, Christmas trees, coffee, cucumbers, dry beans, eggplant, escarole, flaxseed, floriculture, forest products, garlic, grain sorghum, grapefruit, grapes, guava, guar, grass seed, greenhouse and nursery agricultural commodities, hay, herbs, honeydew melons, lemons, lettuce, lima beans, limes, loganberries, maple, mango, mushrooms, mustard greens, okra, olives, oranges, papaya, peanuts, peas, pears, pecans, peppers, plums, pineapple, pistachios, potatoes, prunes, pumpkins, raspberries, rye, safflower, spinach, squash, strawberries, sugar beets, sunflower, sweet corn, sweet potatoes, tangerines, tangelos, tobacco, tomatoes, walnuts, and watermelons.

The Managers recognize that there are several types of innovative insurance plans, such as whole farm revenue insurance, which have the potential to help farmers better manage the risks associated with agricultural production. Whether whole farm revenue insurance, commodity-specific cost of production plans, or other innovative approaches, the Managers encourage the development of actuarially sound policies that do not distort markets and that keep moral hazard and adverse selection problems to a minimum.

(73) Pasteurization.

The Senate amendment provides a common definition of pasteurization for "any provision of federal law under which a food or food product is required to undergo a treatment of pasteurization" which means "any safe treatment that--

(1) Is a treatment prescribed as pasteurization applicable to the food or food product under any Federal law (including regulation); or

(2) Has been determined to the satisfaction of the Secretary of HHS to achieve a level of reduction in the food or food product of the microorganisms of public health concern that--

(A) Is at least as protective of the public health as a treatment described in paragraph (1); and

(B) Is effective for a period that is at least as long as the shelf life of the food or food product when stored under normal, moderate, and severe abuse conditions". (Sec. 1079E)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that clarifies the Food and Drug Administration approval process for claims of pasteurization. FDA is directed to revise as appropriate its existing regulation covering the labeling of foods. Pending the completion of such a review, such authorization is provided for any person to seek FDA approval of an irradiation-labeling claim. (Sec. 10808)

The Managers have included a provision to require the Secretary of Health and Human Services to complete a rulemaking to review current Food and Drug Administration requirements for the labeling of irradiated foods. Since 1997, Congress has repeatedly urged the performance of such a review to ensure that any required

disclosure statement in the labeling of irradiated foods should “be of a type and character such that it would not be perceived to be a warning or give rise to inappropriate consumer anxiety.” House Conference Report No. 105-399, *U.S. Code Congr. & Admin. News* 1997, pp. 2,888-89. Pending completion of the rulemaking required by this provision, any person may petition the Secretary regarding the adequacy of proposed labeling for a particular irradiated food so that the person may receive from the Secretary a determination as to whether labeling inconsistent with current regulatory requirements is truthful and non-misleading and, therefore, permissible. If such petition is neither approved nor denied within 180 days of receipt (unless the petitioner and the Secretary mutually agree to extend this time frame), the petition will be deemed denied and the denial will constitute final agency action subject to judicial review.

The Managers have included a provision to facilitate the use of effective food safety technologies. Specifically, an amendment to Section 403 of the Federal Food, Drug, and Cosmetic Act is included to recognize that the term “pasteurization” or “pasteurized” may be uniformly used to advise consumers that a treatment or process, including a series of treatments or controls, may be used if it achieves the same food safety effect as currently recognized pasteurization methods. The intent of this provision is to make explicit that the term “pasteurization” is available to describe a food safety effect, regardless of the technology or process employed to achieve that result. Currently, regulations regarding milk and egg products recognize that technologies other than thermal treatment may achieve a food safety effect equivalent to pasteurization and, therefore, employ the term in product labeling. This provision provides for FDA to receive pre-market notification of the basis for use of this provision. Enactment of this provision should not be construed as a basis for regulatory action against any products that have borne the term “pasteurization” in a truthful and non-misleading manner prior to enactment of the provision or bear the term “pasteurization” under other authority. Further, nothing in this provision mandates that products not required to be labeled, as “pasteurized” presently is required to be labeled as “pasteurized” solely for the fact that they could be labeled as “pasteurized” under this provision.

The Managers encourage the Secretary in consultation with the Secretary of Health and Human Services, to pursue a comparable pasteurization labeling program for meat and poultry products. Such labeling could allow use of the term pasteurization for meat and poultry products treated by similar processing technologies such as irradiation.

(74) Report on Pouched and Canned Salmon.

The Senate amendment requires the Secretary not later than 120 days after enactment to submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the U.S. under food and nutrition programs administered by the Secretary. (Sec.1081)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the required amount of time for the report to be completed from 120 to 180 days. (Sec. 10902)

(75) Tobacco Settlement Agreement Report

The Senate amendment requires the Comptroller General of the U.S. to submit to Congress not later than December 31, 2002 and annually thereafter through 2006, a

report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997. (Sec. 1082)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10908)

(76) Report on GM Pest Protected Plants

The Senate amendment requires the Secretary to report to the House and Senate Agriculture Committees within 90 days of enactment on the actions taken by USDA to implement recommendations made by the Committee on Genetically Modified Pest-Protected Plants of the Board on Agriculture and Natural Resources of the National Research Council in 2000 regarding food safety, ecological research, and monitoring needs for transgenic crops with plant incorporated protectants; and regarding enhancements to certain operational aspects of the regulatory framework for agricultural biotechnology, including improving coordination and enhanced consistency of review across regulatory agencies and clarifying the regulatory jurisdiction of APHIS. (Sec. 1083)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment accepting the Sense of the Congress provision of Senate Sec. 1083 and dropping remaining provisions. (Sec. 7410)

(77) Study of Creation of Litter Bank by University of Arkansas

The Senate amendment directs the Secretary to conduct a study to evaluate the creation of a litter bank by USDA at the University of Arkansas for the purpose of enhancing health and viability of watersheds in areas with large concentrations of animal producing units and report the results of the study to Congress. (Sec. 1084)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment changing the reference from “litter bank” to “nutrient banking,” deleting any reference to a particular institution, and providing the Secretary with discretion to carry out a study under this section. (Sec. 7411)

(78) Study of Feasibility of Producer Indemnification from Government-Caused Disasters.

The Senate Amendment requires the Secretary of Agriculture to conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 to agricultural producers experiencing disaster conditions caused primarily by Federal agency action. (Sec. 1085)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify that the feasibility study shall focus on disaster conditions caused by Federal agency action restricting access to irrigation water, including any lack of access to an adequate supply of water caused by failure by the Secretary of the Interior to fulfill a contract in accordance with the Central Valley Project Improvement Act. (Sec. 10108)

The Managers expect the study to include losses to farmers due to regulatory actions or inactions, which result in failure to meet water delivery targets as specified under the CalFed Record of Decision for agriculture service contractors who receive water from the Central Valley Project.

(79) Report on the Sale and Use of Pesticides for Agricultural Uses.

The Senate amendment directs the Administrator to submit to Congress a report on the manner in which the Agency is applying regulations of the Agency governing the sale and use of pesticides for agricultural use to electronic transactions. (Sec. 1086)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the required amount of time for the report to be completed from 120 to 180 days. (Sec. 10909)

(80) Report on Birds, Rats and Mice.

The Senate amendment requires a GAO report on the implications of including birds, rats, and mice in the definition of “animal” under USDA’s regulations under the Animal Welfare Act. (Sec. 1087)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment for the National Research Council to submit this report to Congress. The report shall be completed with input from the Secretary of Agriculture, the Secretary of Health and Human Services and the Institute for Animal Laboratory Research. It shall contain an estimate of the number and types of entities that use rats, mice and birds for research purposes, and a description of the regulations to which these are subjected. It shall also contain an estimate of the rats, mice and birds used in research facilities and an indication of which of those facilities are currently under federal regulation. Further, the report shall include an estimate of the additional costs likely to be incurred by researchers resulting from additional regulations, recommendations for minimizing such costs, an estimate of the additional funding APHIS would require to ensure compliance, and recommendations for minimizing the regulatory burden on facilities already subject to federal regulations. (Sec. 10304)

(81) Task Force on National Institutes for Plant and Animal Sciences.

The Senate amendment requires the Secretary not later than 90 days after enactment to establish a task force of 8 members (6 of them private or academic sector) to study review and evaluate publicly funded agricultural research activities and consider the merits of establishing 1 or more National Institutes for Plant and Agricultural Sciences similar to NIH. (Sec. 1088)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(82) Organic Products Promotion

The Senate Amendment authorizes the establishment of a new organic research and promotion check off program, which must be proposed and approved by a majority of certified organic producers and handlers. This provision is designed to facilitate the establishment of one order covering a category of products (organic products) rather than

individual commodities, requires that the composition of the check off board must reflect both regional distribution and differing scales of organic production, and requires the Secretary to conduct a referendum on whether the order should continue at least once every four years. Assessments under an order established under this provision would be voluntary (at the option of individual farmers). To avoid having farmers paying more than one check off assessment, the provision provides that producers choosing to contribute to the organic order would be entitled to a credit against assessments under another order. (Sec. 1091-1098G)

The House Bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow a person that produces and markets only 100% organic products and does not produce any conventional or non-organic products, to be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is produced on a certified organic farm. The Secretary shall promulgate regulations, not later than one year after the date of enactment of this Act, regarding eligibility and compliance for such an exemption. (Sec. 10607)

(83) Effect of Amendments

The Senate amendment provides that amendments made by the Act do not affect Secretarial authority to carry out current price support or production adjustment programs as in effect before the date of enactment. (Sec. 1099A)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(84) CCC Funding

The Senate amendment specifies that notwithstanding any other provision of the bill, any funds made available under the bill will be made available through the Commodity Credit Corporation. (Sec. 1099B)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(85) Implementation Funding and Information Management

The Conference Substitute provides \$55 million for administrative costs associated with the implementation of Title I. Of that amount, not less than \$5 million nor more than \$8 million is to be available for the development of a comprehensive information management system for programs operated by the Farm Service Agency and the Federal Crop Insurance Corporation. The Conference Substitute requires that the Secretary enter into agreements or contracts with outside entities to develop information management system. The Conference Substitute also provides that the new requirements shall not interfere with or delay existing agreements or requests for proposals of the agencies regarding data mining or data warehousing. Such sums as may be necessary are authorized to be appropriated for each of fiscal years 2003 through 2008. (Sec. 10706)

The Managers continue to be concerned about the lack of information sharing and progress toward a common information management system for the service agencies of the Department. The Managers believe that integrating information management systems at USDA will reduce the waste associated with the maintenance of duplicative systems

and allow the agencies to operate more effectively and efficiently to the benefit of agricultural producers.

In the Agricultural Risk Protection Act of 2000 (ARPA), the Farm Service Agency (FSA) and the Federal Crop Insurance Corporation (Corporation) were required to reconcile producer information. FSA and the Corporation serve the same producers with commodity and crop insurance programs, respectively; it is logical that both agencies should use a common information management system so that the collection of data is not duplicated, the integrity of the data collected is improved and, most importantly, customer service to producers is enhanced. The Managers believe that the development of a common information management system for FSA and the Corporation will demonstrate substantial efficiencies and serve as a first step toward broader, Department-wide integration. Valuable groundwork will be laid for further modernization of information technology systems of USDA agencies in the future, and for the incorporation of those systems into that developed for FSA and the Corporation.

The Managers commend the work being done at the Center for Agribusiness Excellence at Tarleton State University in cooperation with the Corporation on crop insurance compliance as directed by ARPA. It is the expectation of the Managers that the Secretary of Agriculture will build upon the work currently being conducted at the Center for Agribusiness Excellence and through further contracting with the Center to develop the information management system for FSA and the Corporation.

The Managers intend for funds provided to the Farm Service Agency under this Section to be used for salaries and expenses of county office personnel in implementing this Act.